

District of Columbia Code

1967 EDITION ☆ SUPPLEMENT III

1970



TITLES 1-49

TABLES AND INDEX

DISTRICT OF COLUMBIA CODE

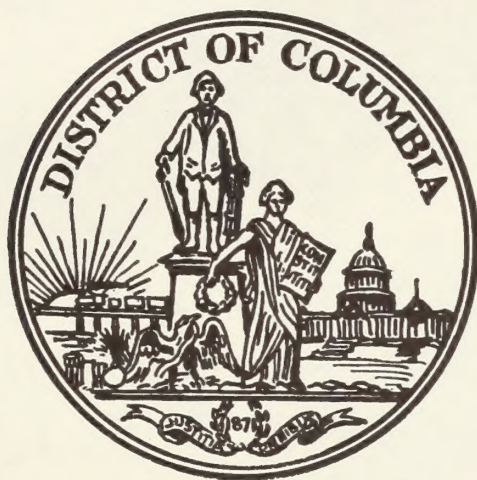
1967 EDITION

CUMULATIVE SUPPLEMENT III

LAWS—January 10, 1967, to January 18, 1970

NOTES TO DECISIONS—January 1, 1967, to December 31, 1969

Prepared and Published Under Authority of Sections 202, 203 of Title 1, United States Code,
by the Committee on the Judiciary of the House of Representatives



UNITED STATES
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DISTRICT OF COLUMBIA CODE

1987 EDITION

CUMULATIVE SUPPLEMENT III

LAW-2-January 16, 1987, to January 18, 1970

NOTES TO DECISIONS-January 1, 1987, to December 31, 1988

Prepared and printed by the District of Columbia Department of the District of Columbia
in the District of Columbia



HOUSE OF REPRESENTATIVES COMMITTEE ON THE JUDICIARY

UNDER WHOSE DIRECTION THIS
EDITION HAS BEEN PREPARED

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TITLES OF DISTRICT OF COLUMBIA CODE

PART I.—GOVERNMENT OF DISTRICT

Title

1. Administration.
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* This title has been enacted as law.

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PREFACE

This third cumulative supplement to the 1967 edition of the District of Columbia Code, containing the additions to and changes in the general and permanent laws relating to or in force in the District of Columbia (except such laws as are of application in the District of Columbia by reason of being general and permanent laws of the United States), enacted during the Ninetieth and the first session of the Ninety-First Congress, has been prepared and published by the Committee on the Judiciary of the House of Representatives under authority of Sections 202 and 203 of Title 1, United States Code. This supplement, together with the 1967 edition, contains the laws of the District of Columbia in force on January 18, 1970.

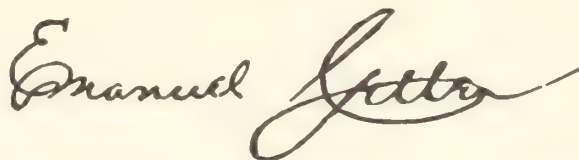
The 1967 edition of the Code was completely annotated with notes to decisions of the courts affecting the respective sections of the Code. These notes have been brought up to the indicated pages in the following reports:

89 Sup. Ct. 1322, 416 F. 2d 1110, 303 F. Supp. 763, 258 A. 2d 456.

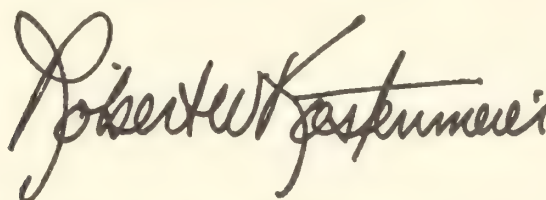
An important and extremely useful improvement introduced for the first time in the first Supplement is a cross-reference note following each section that is referred to in another section, indicating the section that refers to it.

The Committee gratefully acknowledges the assistance of Dr. Charles J. Zinn, Law Revision Counsel, and Joseph Fischer, Esquire, Assistant Law Revision Counsel, of the Committee, and of all others who have helped in the preparation of this supplement.

The Committee again invites suggestions and criticisms by users of the Code.



Chairman, Committee on the Judiciary



*Chairman, Subcommittee No. 3
Committee on the Judiciary*

WASHINGTON, D.C.
January 18, 1970

ACTS RELATING TO THE ESTABLISHMENT OF
THE DISTRICT OF COLUMBIA AND ITS VARIOUS
FORMS OF GOVERNMENTAL ORGANIZATION

REORGANIZATION PLAN NO. 3, 1967

Reorganization Plan No. 3, 1967, effective August 11, 1967, abolished the existing three-commissioner form of government and established in its place a single commissioner and a nine-man council form of government. For details, see the Plan set out in its entirety in the appendix to title 1.

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CONSTITUTION OF THE UNITED STATES OF AMERICA

ARTICLE [XXV]

SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

SEC. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

SEC. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

SEC. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days

after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

PROPOSAL AND RATIFICATION

This amendment was proposed by the Eighty-ninth Congress by Senate Joint Resolution No. 1, which was approved by the Senate on February 19, 1965, and by the House of Representatives, in amended form, on April 13, 1965. The House of Representatives agreed to a Conference Report on June 30, 1965, and the Senate agreed to the Conference Report on July 6, 1965. It was declared by the Administrator of General Services on February 23, 1967, to have been ratified.

This amendment was ratified by the following States: Nebraska, July 12, 1965; Wisconsin, July 13, 1965; Oklahoma, July 16, 1965; Massachusetts, August 9, 1965; Pennsylvania, August 18, 1965; Kentucky, September 15, 1965; Arizona, September 22, 1965; Michigan, October 5, 1965; Indiana, October 20, 1965; California, October 21, 1965; Arkansas, November 4, 1965; New Jersey, November 29, 1965; Delaware, December 7, 1965; Utah, January 17, 1966; West Virginia, January 20, 1966; Maine, January 24, 1966; Rhode Island, January 28, 1966; Colorado, February 3, 1966; New Mexico, February 3, 1966; Kansas, February 8, 1966; Vermont, February 10, 1966; Alaska, February 18, 1966; Idaho, March 2, 1966; Hawaii, March 3, 1966; Virginia, March 8, 1966; Mississippi, March 10, 1966; New York, March 14, 1966; Maryland, March 23, 1966; Missouri, March 30, 1966; New Hampshire, June 13, 1966; Louisiana, July 5, 1966; Tennessee, January 12, 1967; Wyoming, January 25, 1967; Washington, January 26, 1967; Iowa, January 26, 1967; Oregon, February 2, 1967; Minnesota, February 10, 1967; Nevada, February 10, 1967; Connecticut, February 14, 1967; Montana, February 15, 1967; South Dakota, March 6, 1967; Ohio, March 7, 1967; Alabama, March 14, 1967; North Carolina, March 22, 1967; Illinois, March 22, 1967; Texas, April 25, 1967; Florida, May 25, 1967.

CERTIFICATE OF VALIDITY

Publication of the certifying statement of the Administrator of General Services that the Amendment had become valid was made on February 25, 1967, 32 F.R. 3287.

DISTRICT OF COLUMBIA CODE
1967 Edition

CUMULATIVE SUPPLEMENT III

LAWS—January 10, 1967, to January 18, 1970

NOTES TO DECISIONS—January 1, 1967, to December 31, 1969

THE CODE OF THE DISTRICT OF COLUMBIA

PART I

GOVERNMENT OF DISTRICT

TITLE 1—ADMINISTRATION.	TITLE 6—HEALTH AND SAFETY.
TITLE 2—DISTRICT BOARDS AND COMMISSIONS.	TITLE 7—HIGHWAYS, STREETS, BRIDGES.
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TITLE 4—POLICE AND FIRE DEPARTMENTS.	TITLE 9—PUBLIC BUILDINGS AND GROUNDS.
TITLE 5—BUILDING RESTRICTIONS AND REGULATIONS.	TITLE 10—WEIGHTS, MEASURES, AND MARKETS.

TITLE 1.—ADMINISTRATION

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Chapter 1.—CREATION OF DISTRICT—
GENERAL PROVISIONS

§ 1-102. District created body corporate for municipal purposes.

TRANSFER OF PERSONNEL AND PROPERTY TO NEW DISTRICT
OF COLUMBIA GOVERNMENT

Sections 304 and 502 of Reorganization Plan No. 3 of 1967, effective August 11, 1967, and November 3, 1967, respectively, provide:

"SEC. 304. *Transfer of personnel, property, records, and funds.* With respect to personnel, property, records, and unexpended balances of appropriations, allocations and other funds, available or to be made available, relating to functions transferred by the provisions of this reorganization plan, the Commissioner may from time to time effect such transfers between the agencies of the Corporation (including transfers between the Commissioner and any other agency of the Corporation) as he may deem necessary in order to carry out the provisions of this reorganization plan.

"SEC. 502. *Incidental transfers.* (a) The personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the offices of the Board of Commissioners of the District of Columbia or in connection with the offices of the commissioners composing that Board shall be transferred as follows at such time or times as the Director of the Bureau of the Budget shall direct:

"(1) So much thereof as the Director of the Bureau of the Budget shall determine to relate primarily to functions transferred to the District of Columbia Council by the provisions of this reorganization plan shall be transferred to that Council.

"(2) All other thereof shall be transferred to the Commissioner of the District of Columbia.

"(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

"(c) Unless and until other provision is made in pursuance of section 304 of this reorganization plan or by law, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds which are now under the jurisdiction of the Board of

Commissioners of the District of Columbia and are not affected by the provisions of subsection (a) of this section shall continue to be attached to or available for the several agencies of the Corporation."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-103. Commissioners made officers of corporation.

TRANSFER OF FUNCTIONS AS OFFICERS OF THE CORPORATION

Section 405 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"The functions of the Commissioners of the District of Columbia with respect to being officers of the Corporation under D.C. Code, sec. 1-103 are hereby transferred to the members of the District of Columbia Council and to the Commissioner of the District of Columbia in such manner as to accord with the transfers of functions to the Council and the Commissioner, respectively, as effected by the provisions of the foregoing sections of Part IV of this reorganization plan."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

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OFFICERS

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1-266.	District of Columbia medical assistance program—Standards and criteria for determining eligibility—Definitions.
1-267.	Supplementary medical insurance program.

§ 1-201. Appointment of Commissioners.

PRESIDENTIAL EXECUTIVE ORDER 11379

DESIGNATING OFFICIALS TO ACT AS COMMISSIONER OF THE DISTRICT OF COLUMBIA

Ex. Ord. No. 11379, Nov. 8, 1967, 32 F.R. 15625, provided:

"By virtue of the authority vested in me by section 301(d) of Reorganization Plan No. 3 of 1967 (32 F.R. 11671), it is ordered that the following-designated officials of the District of Columbia shall, in the order of succession indicated, act as Commissioner of the District of Columbia during the absence from duty or disability of the Commissioner of the District of Columbia or in the event of a vacancy in the office of Commissioner:

"(1) The Assistant to the Commissioner of the District of Columbia provided for in section 302 of Reorganization Plan No. 3 of 1967.

"(2) The Corporation Counsel of the District of Columbia."

ABOLISHMENT OF BOARD OF COMMISSIONERS

Section 503 (a) and (b) of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"(a) Without prejudice to the continuation of the Corporation, there is hereby abolished the Board of Commissioners of the District of Columbia.

"(b) The abolition effected by subsection (a) of this section includes the abolition of the office held by an officer of the Corps of Engineers of the United States Army as the Engineer Commissioner of the District of Columbia (10 U.S.C. 3534(a); D.C. Code, sec. 1-201) and the two other offices of Commissioner of the District of Columbia, but nothing in this reorganization plan shall preclude the detail by the President of not more than three officers assigned to the Corps of Engineers to assist the Commissioner of the District of Columbia in discharging his duties (10 U.S.C. 3534(b); D.C. Code, sec. 1-212)."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

NOTES TO DECISIONS**Constitutionality**

Federal District Court denied a request for convening of three-judge court in action to have certain statutes which vested executive and legislative power over the government of the District of Columbia in the defendants declared to be in conflict with the Ninth, Tenth, and Fifteenth Amendments to the Federal Constitution, and for injunction to restrain enforcement of certain statutes which purport to authorize the defendants to exercise specified executive and legislative powers, where claims of unconstitutionality were insubstantial. *D. Carliner et al. v. Board of Commissioners etc., et al.* (1967, 265 F. Supp. 736).

Motivation of particular legislators does not make a statute valid or invalid. *Id.*

§ 1-202. Engineer Commissioner may be designated from rank of captain or above.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-203. Engineer Commissioner not required to perform any other duty.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-204a. Compensation of President of Board of Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to compensation of the Council members, the Commissioner and the Assistant to the Commissioner, see sections 204, 301 and 302 of Reorg. Plan No. 3 of 1967, set out in the appendix to this title.

NOTES TO DECISIONS**Right to three-judge court**

Federal District Court denied a request for convening of three-judge court in action to have certain statutes which vested executive and legislative power over the government of the District of Columbia in the defendants declared to be in conflict with the Ninth, Tenth, and Fifteenth Amendments to the Federal Constitution, and for injunction to restrain enforcement of certain statutes which purport to authorize the defendants to exercise specified executive and legislative powers, where claims of unconstitutionality were insubstantial. *D. Carliner et al. v. Board of Commissioners etc., et al.* (1967, 265 F. Supp. 736).

Motivation of particular legislators does not make a statute valid or invalid. *Id.*

§ 1-204b. Compensation of Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to compensation of the Council members, the Commissioner and the Assistant to the Commissioner, see sections 204, 301 and 302 of Reorg. Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-205. Engineer Commissioner not deemed to hold civil office.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-206. Civilian Commissioners—Qualifications.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to qualifications of members of the Council and the Commissioner, see sections 201 and 301 of the Reorg. Plan No. 3, 1967, set out in the appendix to this title.

§ 1-207. Commissioners to choose president of Board.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to qualifications of members of the Council and the Commissioner, see sections 201 and 301 of the Reorg. Plan No. 3, 1967, set out in the appendix to this title.

§ 1-208. Oath of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to the oath of office required to be taken by the members of the council and the Commissioner, see sections 201 and 301 of the Reorg. Plan No. 3, 1967, set out in the appendix to this title.

§ 1-209. Tenure of office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions relating to the terms of office of the members of the council and the Commissioner, see sections 201 and 301 of the Reorg. Plan No. 3, 1967, set out in the appendix to this title.

§ 1-210. Officers becoming surety for contractors prohibited—Contractors not to be surety on bonds of officers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-211. Quorum—Assistants to Engineer Commissioner to act in his absence.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-212. Assistants to Engineer Commissioner, appointment, duties.

ABOLISHMENT OF BOARD OF COMMISSIONERS

Section 503(a) and (b) of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"(a) Without prejudice to the continuation of the Corporation, there is hereby abolished the Board of Commissioners of the District of Columbia.

"(b) The abolition effected by subsection (a) of this section includes the abolition of the office held by an officer of the Corps of Engineers of the United States Army as the Engineer Commissioner of the District of Columbia (10 U.S.C. 3534(a); D.C. Code, sec. 1-201) and the two other offices of Commissioner of the District of Columbia, but nothing in this reorganization plan shall preclude the detail by the President of not more than three officers assigned to the Corps of Engineers to assist the Commissioner of the District of Columbia in discharging his duties (10 U.S.C. 3534(b); D.C. Code, sec. 1-212)."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-213. Bonds of officers and employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of

the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-213a. Commissioners authorized to obtain surety bonds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-213b. Commissioners bonds in lieu of employee bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-214. Secretary of Board of Commissioners authorized to execute certain documents.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-215. Volunteer services not to be accepted for government of District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-216. Offices, abolition or consolidation—Reduction of employees—Appointments to and removal from office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

CROSS REFERENCE

For provisions authorizing establishment of other new offices, see section 303 of the Reorg. Plan No. 3, 1967, set out in the appendix to this title.

§ 1-218. Commissioners—Executive power vested in.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-219. Taxes not to be anticipated by sale or hypothecation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-220. Pardons and respites—Power to grant—Commissioning of officers—Execution of laws.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-221. Location of hack stands.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-222. Establishment of hack stands adjoining railroad stations—Rates of charges.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-223. Rates for public vehicles to be fixed by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-224. Police regulations authorized in certain cases.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(1) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-224a. Additional penalties for violation of regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(2) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-224b. Regulations for the keeping and running at large of dogs.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(3) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-226. Regulations for protection of life, health, and property.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(4) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

NOTES TO DECISIONS

Authority to promulgate curfew

Where city was overcome with rioting, burning and looting Commissioner of District of Columbia had statutory authority to promulgate curfew from 5:30 p.m. to 6:30 the next morning, barring all persons from streets of District of Columbia except police, firemen, medical personnel and district sanitary engineers, without express enabling legislation by Congress. *P. Glover v. District of Columbia* (D.C. App. 1969, 250 A. 2d 556).

A determination by Commissioner that an emergency situation existed, a curfew barring all persons from streets of District of Columbia except police, firemen, medical

personnel and district sanitary engineers from 5:30 p.m. to 6:30 the next morning was a reasonable police regulation and that the curfew was necessary to protect persons and property, and federal troops were entering the city to combat sudden and rampant rioting, looting and burning, which were producing material discomfort to the citizens. *Id.*

Since curfew had become a usual device employed by municipalities to quell riots, curfew imposed on District of Columbia from 5:30 p.m. to 6:30 the next morning, barring all persons from the streets except police, firemen, medical personnel and district sanitary engineers, was a usual police regulation within scope of statute authorizing District Commissioner to make reasonable and usual police regulations. *Id.*

Commissioner's authority to issue curfew

A statute empowering Commissioner of District of Columbia to make and enforce all reasonable and usual police regulations as they may deem necessary for protection of persons and property was adequate authority for Commissioner to issue curfew barring all persons from streets in District during specified hours except law enforcement officers, firemen, physicians and nurses, and medical personnel and employees of department of sanitary engineering when city suddenly became rampant with rioting, looting and burning. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

Commissioner had authority to issue a curfew barring all persons from streets in District of Columbia during certain hours except law enforcement officers, firemen, physicians and nurses, and medical personnel and employees of department of sanitary engineering when city suddenly became rampant with rioting, looting and burning and it was a "reasonable and usual police regulation" within statute empowering Commissioner of District of Columbia to make and enforce all reasonable and usual police regulations. *Id.*

Constitutionality

Issuance of a curfew barring all persons from streets of District of Columbia from 5:30 p.m. to 6:30 a.m. the next day, except police, firemen, medical personnel and district sanitary engineers was not an unreasonable abridgement of defendant's constitutional rights of free travel, speech and assembly where city had suddenly become rampant with rioting, looting and burning, federal troops were entering the city to combat the widespread disturbances, and citizens were suffering material discomfort. *P. Glover v. District of Columbia* (D.C. App. 1969, 250 A. 2d 556).

Constitutionality of curfew

Where situation at time of imposition of curfew had deteriorated to a point where city had requested and received federal troops to cope with widespread fires and looting, and unlimited travel within city would have materially and directly interfered with safety and welfare of citizens of city, issuance of a curfew banning all persons from streets other than law enforcement officers, firemen, physicians, nurses and medical personnel and employees of district department of sanitary engineering was not an unconstitutional abridgement of freedom to travel. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

Duties of Appellate Court

It was the duty of the District of Columbia Court of Appeals, in reviewing conviction for violation of curfew which severely restricted activities of citizen in city imposed by Commissioner, as authorized by statute, when city suddenly became rampant with rioting, looting and burning, to be certain that restrictions were not more stringent than necessary to restore and assure peace and order in community. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

In reviewing conviction for violating curfew, the court would ordinarily consider availability of other governmental responses to end disorder yet place fewer restrictions on travel, free speech and assembly, but where there was no substantive body of knowledge with regard to how to deal with civil disorder once it reached emergency stage, court would confine review to question of whether curfew was so extensive as to geographical area and so

unreasonable as to time and as to the elements of the citizenry which it affected as to require determination of unconstitutionality. *Id.*

Notice of curfew

It is improper to proclaim a District of Columbia police regulation and arrest a person for violating it without affording a reasonable period of time for notice. *P. Glover v. District of Columbia* (D.C. App. 1969, 250 A. 2d 556).

Defendant's arrest for violation of curfew was not unlawful for lack of notice of imposition of curfew where he was arrested more than three hours after curfew had been announced and the record did not suggest that he did not know and could not have known of curfew. *Id.*

Where arrest took place more than three hours after curfew had been announced, and there was nothing to suggest that he did not know or could not have known of existence of curfew, defendant's arrest would not be invalidated for lack of notice even though curfew was announced 15 minutes before it took effect. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

Penalty provisions

A curfew imposed upon District of Columbia was not invalid for failure to state which of several possible penalty provisions would be basis of punishment for violation and for leaving to courts the task of fixing the penalty in each case where curfew was a police regulation and police regulations provided that violation of a regulation wherein penalty was not specifically provided would be punished by fine of not more than \$300. *P. Glover v. District of Columbia* (D.C. App. 1969, 250 A. 2d 556).

A fine of \$12 imposed upon defendant for violation of curfew was within discretion of sentencing court under regulation permitting maximum penalty of a \$300 fine. *Id.*

Proclamation of penalties for violation of curfew

Where curfew proclaimed that violations thereof would be punished as misdemeanors and that there was no statute fixing penalties for misdemeanor, did not render curfew void because it failed to state which of several possible penal provisions would be basis of punishment in view of police regulation providing that where penalty is not specified, person convicted of violating a regulation shall be punished by fine of not more than \$300. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

Reasonableness of curfew

Inasmuch as disturbances throughout scattered areas of District of Columbia were without discernible pattern, and city officials could not predict with any certainty where new disturbances would next occur, application of curfew to entire District of Columbia was not unreasonable. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

Since more serious disturbances had occurred at night, curfew imposed from 5:30 p.m. to 6:30 a.m. on following morning was not unreasonable as to defendant who was arrested for violating curfew at 8:45 p.m. on first night of curfew. *Id.*

Sentences for violation of curfew

The probability of different sentences being imposed by different courts for violating curfew would not invalidate sentence so long as defendant was not punished in excess of penalty provided for by police regulations. *P. Glover v. District of Columbia* (D.C. App. 1969, 253 A. 2d 457).

The kind of sentence to be imposed following conviction for violation of curfew was within discretion of sentencing court, as long as it did not exceed penalty provided by police regulations. *Id.*

§ 1-227. Regulations relative to firearms, explosives, and weapons.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(4) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Co-

lumbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

NOTES TO DECISIONS

Council's authority to make regulations

Council had power, by way of congressional delegation, to make regulations relating to firearms. *Maryland & District of Columbia Rifle and Pistol Association, Inc. v. W. E. Washington, Commissioner, et al.* (1969, 294 F. Supp. 1166).

§ 1-228. Building regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(5) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-229. Regulations for construction and operation of elevators—Penalty.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(6) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-230. Regulations for control of rabies—Vaccination of dogs—Penalties.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(7) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-231. Outdoor signs—Commissioners may make regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(8) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-232. License requirements—Outdoor signs—Fee.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-234. Lights—Maintenance outside city limits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-236. Sale of street sweepings authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-237. Investigations of municipal matters by Commissioners—Authority to administer oaths.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(9) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners with respect to making investigations of municipal matters and administering oaths, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-238. Annual report to Congress.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(10) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-239. Illustrations in reports prohibited, unless authorized by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-240. Originals of discontinued reports of government of District of Columbia to be preserved for public inspection.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-243. Rent for quarters.

TERM OF LEASES

Section 12 of the District of Columbia Appropriation Act of Nov. 13, 1967, Pub. L. 90-134, 81 Stat. 441, provided:

"Appropriations in this Act shall be available, when authorized by the Commissioners, for the rental of quarters without reference to section 6 of the District of Columbia Appropriation Act, 1945." Similar provisions are contained in the following appropriation act:

1970—Dec. 24, 1969, Pub. L. 91-155, § 12, 83 Stat. 433.

1969—Aug. 10, 1968, Pub. L. 90-473, § 12, 82 Stat. 699.

§ 1-244. Additional powers of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(11, 12, 13, 14, 15) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (b), (f) and (h) to the extent provided in section 402 (11 to 15) of the Plan to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-902, 40-903, 47-2345.

§ 1-245. Appointment of contracting officers—Powers—Approval of contracts over \$3,000—Void contracts—Liquidated damage contracts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-246. Powers and duties of Director of Inspection—Delegation of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-248. Effectuate settlement for real estate acquired by purchase or condemnation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-249. Power conferred by sections 1-244 to 1-246 and 1-248 as additional.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-250. Purchase of vehicles—Trade-in as part payment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-251. Authority to grant additional compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-252. Authority to fix certain licensing and registration fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-253. Same—Increase or decrease of fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-254. Commissioners authority to determine honorariums for members of boards—Deposit of fees in the Treasury—Receipt of honorarium without prejudice to other compensation—Definition—Operation of civil service retirement laws.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-257. Commissioners authorized to change and fix licensing periods.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(16) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-258. Applicability of sections 1-254 to 1-258 to boards covered by Reorganization Plan No. 5 of 1952.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-260. Holidays for District employees—Regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(17) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-261. Authority for transporting children of certain employees in District-owned vehicles.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-262. Reception by Commissioners of eminent persons—Appropriation authorized.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(18) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this sec-

tion relating to the reception and entertainment of officials and other dignitaries to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-263. Advancement of moneys by disbursing officer.

SIMILAR PROVISIONS

Similar provisions were contained in the following District of Columbia Appropriation Acts:

1970—Dec. 24, 1969, Pub. L. 91-155, § 7, 83 Stat. 432.

1969—Aug. 10, 1968, Pub. L. 90-473, § 7, 82 Stat. 699.

1968—Nov. 13, 1967, Pub. L. 90-134, § 7, 81 Stat. 440.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-264. Imposition of penalties by Commissioners for delivery of bad checks in payment of obligations due District of Columbia—Basis for penalty—Exception—Manner of collection.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(19) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-265. District of Columbia student loan insurance program.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-266. District of Columbia medical assistance program—Standards and criteria for determining eligibility—Definitions.

(a) The Commissioner of the District of Columbia (hereafter in this section and section 1-267 referred to as the "Commissioner") may submit under title XIX of the Social Security Act to the Secretary of Health, Education, and Welfare (hereafter in this section and section 1-267 referred to as the "Secretary") a plan for medical assistance (and any modifications of such plan) to enable the District of Columbia to receive Federal financial assistance under such title for a medical assistance program established by the Commissioner under such plan.

(b) (1) Notwithstanding any other provision of law, the Commissioner may take such action as may be necessary to submit such plan to the Secretary

and to establish and carry out such medical assistance program, except that in prescribing the standards for determining eligibility for and the extent of medical assistance under the District of Columbia's plan for medical assistance, the Commissioner may not (except to the extent required by title XIX of the Social Security Act)—

(A) prescribe maximum income levels for recipients of medical assistance under such plan which exceed (i) the title XIX maximum income levels if such levels are in effect, or (ii) the Commissioner's maximum income levels for the local medical assistance program if there are no title XIX maximum income levels in effect; or

(B) prescribe criteria which would permit an individual or family to be eligible for such assistance if such individual or family would be ineligible, solely by reason of his or its resources, for medical assistance both under the plan of the State of Maryland approved under title XIX of the Social Security Act and under the plan of the State of Virginia approved under such title.

(2) For purposes of subparagraph (A) of paragraph (1) of this subsection—

(A) the term "title XIX maximum income levels" means any maximum income levels which may be specified by title XIX of the Social Security Act for recipients of medical assistance under State plans approved under that title;

(B) the term "the Commissioner's maximum income levels for the local medical assistance program" means the maximum income levels prescribed for recipients of medical assistance under the District of Columbia's medical assistance program in effect in the fiscal year ending June 30, 1967; and

(C) during any of the first four calendar quarters in which medical assistance is provided under such plan there shall be deemed to be no title XIX maximum income levels in effect if the title XIX maximum income levels in effect during such quarter are higher than the Commissioner's maximum income levels for the local medical assistance program. (Dec. 27, 1967, Pub. L. 90-227, § 1, 81 Stat. 744.)

REFERENCES IN TEXT

Title XIX of the Social Security Act referred to in text is set out as sections 1396 to 1396d of title 42 U.S. Code.

§ 1-267. Supplementary medical insurance program.

The Commissioner may enter into an agreement (and any modifications of such agreement) with the Secretary under section 1843 of the Social Security Act pursuant to which (1) eligible individuals (as defined in section 1836 of the Social Security Act) who are eligible to receive medical assistance under the District of Columbia's plan for medical assistance approved under title XIX of the Social Security Act will be enrolled in the supplementary medical insurance program established under part B of title XVIII of the Social Security Act, and (2) provisions will be made for payment of the monthly premiums of such individuals for such program. (Dec. 27, 1967, Pub. L. 90-227, § 2, 81 Stat. 745.)

REFERENCES IN TEXT

Title XIX of the Social Security Act referred to in text is set out as sections 1396 to 1396d of title 42 U.S. Code.

Section 1836 of the Social Security Act is set out in section 1395o of title 42 U.S. Code.

Section 1843 of the same act is set out as section 1395v of title 42 U.S. Code.

Part B of title XVIII of the same act is set out as sections 1395j to 1395w.

Chapter 3.—OFFICERS AND EMPLOYEES GENERALLY

Sec.

1-320. Eligibility for employment in the District of Columbia Government.

§ 1-301. Corporation Counsel—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-302. Assistant corporation counsels—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-304. Purchasing officer—Duties—Bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-306. Municipal architect—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-309. Reports by custodians of property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-310a. Salary increases by reason of reallocation of positions—Limitation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-311. Repealed. Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-544, § 8(a).

* * * *

Act July 4, 1966, 80 Stat. 252, Pub. L. 89-488, amended various provisions of former Federal Employees' Compensation Act [5 U.S.C. former § 751 et seq.]. Section 15 of that act made the amendments applicable to employees of the government of the District of Columbia except members of the Police and Fire Departments. The act of September 6, 1966, Pub. L. 89-554, enacted into law the former provisions of the Federal Employees Compensation Act and district employees except Firemen and Police are covered by that act. The act of September 11, 1967, Pub. L. 90-83, brought into the new Title 5, the provisions of the act of July 4, 1966, Pub. L. 89-488 and section 10(b) of that act repealed Pub. L. 89-488, section 15 of which was set out as a note to this section.

§ 1-313. Per diem employees—Leave of absence.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-315. Pay rolls—Signature by mark.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-316. Persons convicted of certain crimes ineligible to hold office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-320. Eligibility for employment in the District of Columbia Government.

In any program of recruitment or hiring of individuals to fill positions in the government of the District of Columbia, no officer or employee of the government of the District of Columbia shall exclude or give preference to the residents of the District of Columbia or any State of the United States on the basis of residence, religion, race, color, or national origin. (Nov. 3, 1967, Pub. L. 90-120, Title III, § 301, 81 Stat. 340.)

SHORT TITLE

Section 1, Act Nov. 3, 1967, Pub. L. 90-120 provided: "That this Act [amending section 47-2501a, subsection 9-220(b), repealing subsection 9-220(f) and enacting section 1-320] may be cited as the 'District of Columbia Federal Payment Authorization and Borrowing Authority Act of 1967'."

Chapter 5.—NOTARIES PUBLIC

§ 1-501. Appointment—Representation of clients before government departments—Administration of certain acknowledgments—License fee—Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(20) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing rules and regulations relating to notaries public to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-504. Oath and bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-506. Signature and impression of seal prohibited.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-516. Vacation of office—Custody of records and papers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-517. Certificates issued by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-518. Appropriation—Inclusion of expenses and salaries in Commissioners' annual estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 6.—SURVEYOR

§ 1-601. Appointment and term of office—Salary.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-602. Oath.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-603. Assistant surveyor and other employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-613. Plats—Regulation—Recording.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(21) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-615. Cemeteries—Right of way through.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-616. Surveys for District—Fees and documents.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-621. Lots and parcels may be resurveyed to determine accuracy—Recording only on order.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see section 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-622. Reference to subdivisions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-623. Alleys—Police regulation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except

as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-629. Commissioners of the District of Columbia to prescribe fees for surveyor—Schedule of fees to be displayed.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(22) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

Chapter 7.—INSPECTION—REGULATORY PROVISIONS**§ 1-703. Boiler inspection service created—Personnel.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-704. Bond—Oath.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-705. Inspection of designated steam boilers and unfired pressure vessels.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(23) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-706. Operating at pressure greater than permitted.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-707. Annual inspection—Certificate of inspection—Display.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-710. Fees—Certificate invalidated by cessation of insurance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-712. Records to be kept.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-715. Regulations—Fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(24) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-718. Effective date of sections 1-701 to 1-718—Promulgation of regulations and schedules of fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-719. Electric wiring—Inspection—Rules and regulations—Fees.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(25) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-720. Inspection—Notice of violations—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-721. Electrical engineer—Appointment—Qualifications—Assistant inspectors.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-724. Plumbing—Appointment of inspector—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-725. Regulations governing plumbing, house drainage, sewers, and for examination and licensing of plumbers and gas-fitters—Noncompliance—Penalty.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(26) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-726. Fees for permits for sewer, gas, and water connections, excavations—Disposition of fees.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(27) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-727. Inspector of plumbing—Inspection of buildings—Enforcement of regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 8.—CONTRACTS

Sec.

- 1-804a. Public contractors required to post performance and payment bonds in certain cases—Amount of bonds.
- 1-804b. Rights of laborers and materialmen to sue on payment bonds—Prior notice of claim required in certain cases—Time limitations—Suit to be brought in name of District of Columbia.
- 1-804c. Certified copy of bond and contract to be furnished on application of interested parties—Copy as prima facie evidence—Fees.
- 1-805. Contractors' bond not required for contracts not exceeding \$2,000—Contracts not to be subdivided to reduce amount.
- 1-806. Formal contract with bond not required in contracts not exceeding \$2,000.
- 1-820. Reciprocal agreements for police mutual aid with authorities in Maryland and Virginia.
- 1-821. Same; Provisions to be included in agreements.
- 1-822. Same; District police and other personnel to retain all benefits provided by District Government.
- 1-823. Same; Commissioner to direct cut of District police and other personnel—Enforcement of District laws by cut of District police and personnel.
- 1-824. Contracts for inspection, maintenance and repair of fixed equipment.

§ 1-801. Limitation on right of Commissioners to contract.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-802. Contracts in which Commissioners personally interested to be void.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-803. Commissioners' contracts to be in writing and filed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-804. Repealed. Aug. 3, 1968, Pub. L. 90-455, 82 Stat. 629 § 7.

Section, act July 7, 1932, 47 Stat. 608, ch. 441, as amended dealt with requirement for bonds to be posted by public contractors; rights of laborers and materialmen, etc. The subject matter is now covered by sections 1-804 a, b and c. The repealing section provided that "such Act [§ 1-804] shall remain in force with respect to contracts for which invitations for bids have been issued on or before the effective date of this Act, and to persons or bonds in respect to such contracts." For effective date, see note under this section.

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [see enumeration of classification of this act in Definition of Terms note under section 1-804a] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

NOTES TO DECISIONS

Construction

Statute providing that District of Columbia shall have six months from completion and final settlement of prime contract to bring suit against surety and thereafter subcontractor creditors may bring suit in name of District is to be liberally construed in aid of the public object of providing security to those who contribute labor or material for public works. *District of Columbia for the use etc. v. Edrow Engineering Company, Inc., et al.* (1968, 284 F. Supp. 549).

Under statute providing that District of Columbia shall have six months from completion and final settlement to bring suit against surety and thereafter subcontractor creditors may bring suit in name of District, where rights of subcontractors are attempted to be asserted before statute recognizes they have matured and consequent effect is to prevent orderly and effective disposition of all claims and to impede work of court, strict regard for statutory provisions authorizing suit and governing creation of jurisdiction is essential. *Id.*

Dismissal of complaint

Under statute providing that District of Columbia shall have six months from completion and final settlement of prime contract to bring suit against surety and thereafter subcontractor creditors may bring suit in name of District and providing that when suit is instituted personal notice should be given to all known creditors in addition to notice by publication, where suit for labor and materials furnished pursuant to subcontract was filed about 15 months before final settlement and no notice was given to other creditors by either party, complaint would be dismissed without prejudice. *District of Columbia for the use etc. v. Edrow Engineering Company, Inc., et al.* (1968, 284 F. Supp. 549).

District's responsibility

Under statute providing that District of Columbia shall have six months from completion and final settlement of prime contract to bring suit against surety and thereafter subcontractor may bring suit in name of the District, District has responsibility to answer all questions from interested parties and to assist them when uncertainties

arise as to dates of final settlement. *District of Columbia for the use etc. v. Edrow Engineering Company, Inc., et al.* (1968, 284 F. Supp. 549).

Extent of proof required by materialmen

Section giving right of recovery to any person "who has furnished labor or materials used in the construction or repair of any public building or public work" is construed for purposes of recovery upon the bond in suit, to require only a showing that materials or equipment have, by reference to public contract, been furnished by subcontractor to general contractor and have been accepted by general contractor for use in that contract. *The Aetna Casualty and Surety Co. v. Circle Equipment Co., et al.* (1967, 377 F. 2d 160, 126 U.S. App. D.C. 275).

Issue of prematurity of suit

Under statute providing that District of Columbia shall have six months from completion and final settlement of prime contract to bring suit against surety and thereafter subcontractor creditors may bring suit in name of District, issue of prematurity of suit by subcontractor should be raised by motion before trial unless extremely complicated factual issues as to date of completion or final settlement are presented. *District of Columbia for the use etc. v. Edrow Engineering Company, Inc., et al.* (1968, 284 F. Supp. 549).

Jurisdiction of District Court

Under statute authorizing District of Columbia to bring suit within six months on contractor's bond, during which time unpaid creditors could intervene, and providing that if district did not bring suit within six months after final settlement under contract unpaid creditors could bring suit in district court in name of district, district court had jurisdiction of subcontractor's suit commenced within six-month period notwithstanding that suit was not brought during period by district, where contractor did not challenge subject matter jurisdiction until after expiration of six-month period, even though suit would have been subject to dismissal as prematurely brought if dismissal had been sought within six-month period. *The Aetna Casualty and Surety Co. v. Circle Equipment Co., et al.* (1967, 377 F. 2d 160, 126 U.S. App. D.C. 275).

Limitation on intervention

Under this section which required party having a claim against a contractor on school project to intervene in any pending action against contractor within one year after completion of the work and which required three weeks' published notice, the last publication to be at least three months before the time limited therefor, claims which were filed more than one year after final settlement but within time contemplated by notice provision were properly allowed. *J. F. Hughes & Co. Inc. et ano. v. District of Columbia etc., et al.* (1969, 413 F. 2d 376, — U.S. App. D.C. —).

Materialmen supplying contractor building school were to have assistance of published notice in ascertaining whether suit had been filed in which they could intervene. *Id.*

Notice by publication

Under statute providing that District of Columbia shall have six months from completion and final settlement of prime contract to bring suit against surety and thereafter subcontractor creditors may bring suit in name of the District and providing that when suit is instituted personal notice shall be given to all known creditors in addition to notice by publication, burden and expense of notice by publication should reasonably be borne by the plaintiff subcontractor. *District of Columbia for the use etc. v. Edrow Engineering Company, Inc., et al.* (1968, 284 F. Supp. 549).

Obligation to give personal notice

Under statute providing that District of Columbia shall have six months from completion and final settlement to bring suit against surety and permitting subcontractor creditors to bring suit thereafter and providing that personal notice shall be given to all known creditors in addition to notice by publication, obligation to give personal notice is that of the prime contractor, and if such notice is not given, prime contractor should not be permitted to take advantage of the "one action" provision when later sued by subcontractor without actual notice. *District of*

Columbia for the use etc. v. Edrow Engineering Company, Inc., et al. (1968, 284 F. Supp. 549).

Statutory scheme

Statutory scheme for orderly procedure for prosecuting claims against surety on contract with District of Columbia can only be achieved if subcontractor claimants observe clear directive of statute and no suit is filed until six months after final settlement. *District of Columbia for the use etc. v. Edrow Engineering Company Inc., et al.* (1968, 284 F. Supp. 549).

§ 1-804a. Public contractors required to post performance and payment bonds in certain cases—Amount of bonds.

(a) Before any contract, exceeding \$2,000 in amount, for the construction, alteration, or repair of any public building or public work of the District of Columbia is awarded to any person, such person shall furnish to the District of Columbia the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

(1) A performance bond with a surety or sureties satisfactory to the Commissioners of the District of Columbia, and in such amount as they shall deem adequate, for the protection of the District of Columbia.

(2) A payment bond with a surety or sureties satisfactory to the Commissioners for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract shall be not more than \$1,000,000 the payment bond shall be in a sum equal to one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$1,000,000 and not more than \$5,000,000, the said payment bond shall be in a sum equal to 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$5,000,000 the payment bond shall be in the sum of \$2,500,000.

(b) Nothing in this section shall be construed to limit the authority of the Commissioners to require a performance bond or other security in addition to those, or in cases other than the cases specified in subsection (a) of this section. (Aug. 3, 1968, Pub. L. 90-455, § 1, 82 Stat. 628.)

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [See enumeration of classification of this act in Definition of Terms note] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

TRANSFER OF FUNCTIONS TO COMMISSIONER OF THE DISTRICT

Section 9 of act Aug. 3, 1968, Pub. L. 90-455, provided: "Effective on the effective date of this Act or on the effective date of part IV of Reorganization Plan No. 3 of 1967 [See Appendix to title 1], whichever is later, the functions vested in the Board of Commissioners by this Act shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan." [See effective date note.]

DEFINITIONS OF TERMS USED IN PUB. L. 90-445

Section 6 of act Aug. 3, 1968, Pub. L. 90-445, provided: "As used in this Act (enacting sections 1-804a, 1-804b, 1-804c, amending sections 1-805 to 1-807, repealing section 1-804, and enacting sections 6, 8 and 9 set out as notes to this and certain of above enumerated sections), the term 'person' and the masculine pronoun shall include all persons whether individuals, associations, copartnerships, or corporations, and the terms 'Commissioners of the District of Columbia' and 'Commissioners' mean the Board of Commissioners of the District of Columbia or their designated agents."

§ 1-804b. Rights of laborers and materialmen to sue on payment bonds—Prior notice of claim required in certain cases—Time limitations—Suit to be brought in name of District of Columbia.

(a) Every person who has furnished labor or material in the prosecution of the work provided for in such contract, in respect of which a payment bond is furnished under this Act and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final judgment and execution for the sum or sums justly due him: *Provided*, That any person having direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety days from the date on which such person did or performed the last of the labor, or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal for the District of Columbia is authorized by law to serve summons.

(b) Every suit instituted under this section shall be brought in the name of the District of Columbia for the use of the person suing, in the United States District Court for the District of Columbia, irrespective of the amount in controversy in such suit, but no such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material was supplied by him. The District of Columbia shall not be liable for the payment of any costs or expenses of any such suit. (Aug. 3, 1968, Pub. L. 90-455, § 2, 82 Stat. 628.)

REFERENCE IN TEXT

"This Act" referred to in subsection (a) is the act of Aug. 3, 1968, which enacted this section, sections 1-804a, and 1-804c, amended sections 1-805 to 1-807, repealed section 1-804, and enacted sections 6, 7, 8 and 9 set out as notes to this and the other enumerated sections.

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [see enumeration of classification of this act in

Definition of Terms note] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

TRANSFER OF FUNCTIONS TO COMMISSIONER OF THE DISTRICT

Section 9 of act Aug. 3, 1968, Pub. L. 90-455, provided: "Effective on the effective date of this Act or on the effective date of part IV of Reorganization Plan No. 3 of 1967, [see appendix to title 1] whichever is later, the functions vested in the Board of Commissioners by this Act shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan." [See effective date note.]

DEFINITIONS OF TERMS USED IN PUB. L. 90-455

Section 6 of act Aug. 3, 1968, Pub. L. 90-455, provided: "As used in this Act, (enacting sections 1-804a, 1-804b, 1-804c, amending sections 1-805 to 1-807, repealing section 1-804, and enacting sections 6, 8 and 9 set out as notes to this and the above enumerated sections) the term 'person' and the masculine pronoun shall include all persons whether individuals, associations, copartnerships, or corporations, and the terms 'Commissioners of the District of Columbia' and 'Commissioners' mean the Board of Commissioners of the District of Columbia or their designated agents."

§ 1-804c. Certified copy of bond and contract to be furnished on application of interested parties—Copy as prima facie evidence—Fees.

The Commissioners are authorized and directed to furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made or that he is being sued on any such bond, a certified copy of such bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay for such certified copies such fees as the Commissioners fix to cover the cost of preparation thereof. (Aug. 3, 1968, Pub. L. 90-455, § 3, 82 Stat. 628.)

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [see enumeration of classification of this act in Definition of Terms note] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

TRANSFER OF FUNCTIONS TO COMMISSIONER OF THE DISTRICT

Section 9 of the act, Aug. 3, 1968, Pub. L. 90-455, provided: "Effective on the effective date of this Act or on the effective date of part IV of Reorganization Plan No. 3 of 1967, [see Appendix to title 1] whichever is later, the functions vested in the Board of Commissioners by this Act shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan." [See effective date note.]

DEFINITIONS OF TERMS USED IN PUB. L. 90-455

Section 6 of the act Aug. 3, 1968, Pub. L. 90-455, provided: "As used in this Act, [enacting sections 1-804a, 1-804b, 1-804c, amending sections 1-805 to 1-807, repealing section 1-804, and enacting sections 6, 8 and 9 set out as notes to this and the above enumerated sections) the term 'person' and the masculine pronoun shall include all persons whether individuals, associations, copartnerships, or corporations, and the terms 'Commissioners of the District of Columbia' and 'Commissioners' mean the Board of Commissioners of the District of Columbia or their designated agents."

§ 1-805. Contractors' bond not required for contracts not exceeding \$2,000—Contracts not to be subdivided to reduce amount.

In all cases where the Commissioners of the District of Columbia contract for work or material involving a sum not exceeding \$2,000, it shall not be necessary for said Commissioners to require a bond with said contract; but no work capable of execution under a single contract, nor any purchase of material where the total expenditure involved is greater than \$2,000, shall be subdivided or lessened for the purpose of reducing the sum of money to be paid therefor to less than that amount. (June 28, 1906, 34 Stat. 546, ch. 3575; June 26, 1912, 37 Stat. 168, ch. 182; Aug. 3, 1968, Pub. L. 90-455, § 4, 82 Stat. 629.)

AMENDMENT

1968—Section 4 of act Aug. 3, 1968, Pub. L. 90-455, amended section by striking "\$1,000" and inserting in lieu thereof, "\$2,000".

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [see enumeration of classification of this act in Definition of Terms note] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO COMMISSIONER OF THE DISTRICT

Section 9 of act Aug. 3, 1968, Pub. L. 90-455, provided: "Effective on the effective date of this Act or on the effective date of part IV of Reorganization Plan No. 3 of 1967 [see Appendix to title 1] whichever is later, the functions vested in the Board of Commissioners by this Act shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan." [See effective date note.]

DEFINITIONS OF TERMS USED IN PUB. L. 90-455

Section 6 of act Aug. 3, 1968, Pub. L. 90-455, provided: "As used in this Act, (enacting sections 1-804a, 1-804b, 1-804c, amending sections 1-805 to 1-807, repealing section 1-804, and enacting sections 6, 8 and 9 set out as notes to this and the above enumerated sections) the term 'person' and the masculine pronoun shall include all persons whether individuals, associations, copartnerships, or corporations, and the terms 'Commissioners of the District of Columbia' and 'Commissioners' mean the Board of Commissioners of the District of Columbia or their designated agents."

§ 1-806. Formal contract with bond not required in contracts not exceeding \$2,000.

Formal written contracts with bond for work or the purchase of supplies and materials for the District of Columbia shall not be required in cases where the cost of such work or supplies or materials does not exceed the sum of \$2,000. (June 26, 1912, 37 Stat. 168, ch. 182; Aug. 3, 1968, Pub. L. 90-455, § 4, 82 Stat. 629.)

AMENDMENT

1968—Section 4 of act Aug. 3, 1968, Pub. L. 90-455, amended section by striking "\$1,000" and inserting in lieu, "\$2000".

EFFECTIVE DATE OF PUB. L. 90-455, AND RESERVATION OF RIGHTS

Section 8 of act Aug. 3, 1968, Pub. L. 90-455, provided: "This Act [see enumeration of classification of this act in Definition of Terms note] shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any person or bond in respect of any such contract."

DEFINITIONS OF TERMS USED IN PUB. L. 90-455

Section 6 of act Aug. 3, 1968, Pub. L. 90-455, provided: "As used in this Act, (enacting sections 1-804a, 1-804b, 1-804c, amending sections 1-805 to 1-807, repealing section 1-804, and enacting sections 6, 8 and 9 set out as notes to this and the above enumerated sections) the term 'person' and the masculine pronoun shall include all persons whether individuals, associations, copartnerships, or corporations, and the terms 'Commissioners of the District of Columbia' and 'Commissioners' mean the Board of Commissioners of the District of Columbia or their designated agents."

§ 1-807. Retents.

On all contracts made by the District of Columbia for construction work there shall be withheld, until completion and acceptance of the work, a retent of 10 per centum of the total amount of any payments made thereunder as a guaranty fund that the terms of such contracts shall be strictly and faithfully performed: *Provided, however,* That whenever 50 per centum of the work required under a contract for construction work has been completed and payments therefor have been made the Commissioners of the District of Columbia, in their sole discretion, may authorize subsequent payments to be made to the contractor without withholding from such subsequent payments 10 per centum thereof as required by this section, or the said Commissioners may authorize retention from such subsequent payments of less than 10 per centum thereof, and whenever the work is substantially complete, the Commissioners, if they consider the amount retained to be in excess of the amount adequate for the protection of the District of Columbia, at their discretion may release to the contractor all or a portion of such excess amount; and the said Commissioners, in their sole discretion, may further authorize payment in full, including retained percentages, for each separate building or public work on which the price is stated separately in the contract upon completion and acceptance of such building or work. (Mar. 3, 1887, 24 Stat. 501, ch. 355; Mar. 31, 1906, 34 Stat. 94, ch. 1356, § 1; Aug. 3, 1949, 63 Stat. 493, ch. 386; Aug. 3, 1968, Pub. L. 90-455, § 5, 82 Stat. 629.)

AMENDMENT

1968—Section 5 of act Aug. 3, 1968, Pub. L. 90-455, amended section by inserting the following before the semicolon, " , and whenever the work is substantially complete, the Commissioners, if they consider the amount retained to be in excess of the amount adequate for the protection of the District of Columbia, at their discretion may release to the contractor all or a portion of such excess amount".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO COMMISSIONER OF THE DISTRICT

Section 9 of act Aug. 3, 1968, Pub. L. 90-455, provided: "Effective on the effective date of this Act or on the effective date of Part IV of Reorganization Plan No. 3 of 1967, [see Appendix to title 1] whichever is later, the functions vested in the Board of Commissioners by this Act shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan." [See effective date note and section 1-806.]

§ 1-810. Separate contracts for material and for labor authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-811. Operation of District quarry.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-812. Use of agents in purchasing sites for schools and public buildings—Commissions—Future enlargement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-813. Building materials may be tested by Bureau of Standards.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-814. Testing materials in laboratory of highway department.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-817. Sewerage agreement with Maryland authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1621.

§ 1-817a. Contracts for removal of certain byproducts of the District of Columbia sewage-treatment plant.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

§ 1-817c. Sewerage agreement with Virginia authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1621.

§ 1-818. Sale of property unfit for service—Proceeds credited to appropriation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-819. Exchange of equipment on purchase of new.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-820. Reciprocal agreements for police mutual aid with authorities in Maryland and Virginia.

The Commissioner of the District of Columbia is hereby authorized in his discretion to enter into and renew reciprocal agreements, for such period as he deems advisable, with any county, municipality, or other governmental unit in the States of Maryland and Virginia, in order to establish and carry into effect a plan to provide mutual aid, through the furnishing of policemen and other agents and employees, together with all necessary equipment, in the event of war, internal disorder, fire, flood, epidemic, or other public disorder which threatens or has occurred. (Oct. 17, 1968, Pub. L. 90-587, § 1, 82 Stat. 1150.)

§ 1-821. Same; Provisions to be included in agreements.

The District of Columbia shall not enter into any such agreement unless the agreement provides that each of the parties to such agreement shall (1) waive any and all claims against all the other parties thereto which may arise out of their activities outside their respective jurisdictions under such agreement; (2) indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury which may arise out of the activities of the other parties to such agreement outside their respective jurisdictions under such agreement. (Oct. 17, 1968, Pub. L. 90-587, § 2, 82 Stat. 1150.)

§ 1-822. Same; District police and other personnel to retain all benefits provided by District Government.

The policemen and other officers, agents, and employees of the District, when acting hereunder or under other lawful authority beyond the territorial limits of the District, shall have all of the pension, relief, disability, workmen's compensation, and other benefits enjoyed by them while performing their respective duties within the District of Columbia. (Oct. 17, 1968, Pub. L. 90-587, § 3, 82 Stat. 1150.)

§ 1-823. Same; Commissioner to direct out of District police and other personnel—Enforcement of District laws by out of District police and personnel.

The Commissioner of the District of Columbia shall be responsible for directing the activities of all policemen and other officers and agents coming into the District pursuant to any such reciprocal agreement, and the Commissioner is empowered to authorize all policemen and other officers and agents from outside the District to enforce the laws applicable in the District to the same extent as if they were duly authorized officers and members of the

Metropolitan Police force of the District of Columbia. (Oct. 17, 1968, Pub. L. 90-587, § 4, 82 Stat. 1150.)

§ 1-824. Contracts for inspection, maintenance and repair of fixed equipment.

That the Commissioner of the District of Columbia is authorized to enter into contracts for periods not exceeding three years for the inspection, maintenance, and repair of fixed equipment in buildings owned by the District of Columbia. (Oct. 12, 1968, Pub. L. 90-573, § 1, 82 Stat. 1004.)

Chapter 9.—CLAIMS AGAINST DISTRICT**§ 1-901. Service of process.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-902. Settlement of claims and suits against the District of Columbia—Cases that may be settled—Defenses.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioners of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

Settlement of claims against District by officers and employees thereof, for damage to, or loss of, personal property, see 31 U.S.C. 241(f).

§ 1-903. Refund of taxes when similar assessments have been held void by court decisions—Limitations.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-904. Settlements limited to \$10,000—Report to Congress—Appropriations authorized.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-905. Effective date.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-906. Authority to compromise claim or suit—Limitations.

Upon a report by the corporation counsel of the District of Columbia showing in detail the just and true amount and condition of any claim or suit which the District of Columbia may on July 31, 1951, or thereafter have against any person, firm, association, or corporation, and the terms upon which the same may be compromised, and stating that in his opinion a compromise of such claim or suit would be for the best interest of the District of Columbia, the Commissioners of the District of Columbia be, and they hereby are, authorized to compromise such claim or suit accordingly: *Provided, however,* That no claim or suit so compromised, except with the approval of the United States District Court for the District of Columbia, a claim or suit under section 19-701 of the District of Columbia Code, shall be reduced by an amount greater than \$10,000: *And provided further,* That this section shall not apply to claims or suits for taxes or special assessments. (Feb. 11, 1929, 45 Stat. 1161, ch. 173, § 5, as added by act of July 31, 1951, 65 Stat. 131, ch. 274, § 2; and amended, June 28, 1967, 81 Stat. 81, Pub. L. 90-33, § 1.)

AMENDMENT

1967—Act June 28, 1967, amended section by inserting after the word “compromised” in the first proviso the following “, except with the approval of the United States District Court for the District of Columbia, a claim or suit under section 19-701 of the District of Columbia Code.”.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NON-LIABILITY OF DISTRICT EMPLOYEES**§ 1-921. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred function of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-925. Action against District employees barred for negligent operation of vehicles—Exception.**NOTES TO DECISIONS****Action against co-employee**

A passenger-schoolteacher who was riding with driver-schoolteacher to a meeting at time of collision resulting from driver-schoolteacher's negligence was precluded under D.C. Employees Non-Liability Act, from bringing action against driver-schoolteacher even though under Federal Employees' Compensation Act she was only barred from bringing action against school district. *F. P. Davis et ano. v. P. O. Harrod et ano.* (1969, 407 F. 2d 1280, 132 U.S. App. D.C. 345).

Chapter 10.—NATIONAL CAPITAL PLANNING COMMISSION**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in section 9-220.

§ 1-1002. The Commission—Composition—Functions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix of title 1.

§ 1-1004. Comprehensive plan for the National Capital—Elements—Procedure.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(28) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, relating to consultations concerning the formation of one or more citizen advisory councils under subsection (e) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-942.

§ 1-1005. Proposed Federal and District developments and projects.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(29) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 1-1006. Thoroughfare plan.**ABOLISHMENT OF JOINT BOARD CREATED UNDER SECTION 40-603(e)**

Section 503(c) of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

“The joint board authorized and created by section 6(e) of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40-603(e)), together with its functions, is hereby abolished.”

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(30 and 31) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (b) relating to approving a major thoroughfare plan or parts thereof or revisions thereof, and proposing revision of the major thoroughfare plan or parts thereof, and consulting with National Planning Commission, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-1007. Public works program.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(32) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-1008. Zoning and subdivision functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1012. Appropriation for acquisition of such lands—Control—Use.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 11.—ELECTIONS

Sec.

1-1101. Election of electors of President and Vice President, the members of the Board of Education, and officials of political parties.

1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot—Nominations for presidential electors—Names of candidates for President and Vice President to appear on ballot under party designation—Form of ballot—Candidates for electors not to appear on ballot—Nominations by nonqualifying political parties—Qualifications of electors—Nominating petition for election of members of Board of Education—Filing fee—Rules relating to Board of Education petitions—Posting of petitions in a public place—Challenging validity of petition—Board of Elections to determine validity of petitions—Appeal—Arrangement of names on ballot.

Sec.

1-1110. Dates for holding elections—Voting hours—Method of deciding tie votes—Naming successor to official who dies, resigns, or is unable to serve—Votes cast for President and Vice President to be counted as votes for presidential electors—Election of ward and at large members of Board of Education—Runoff elections—Filling of vacancies on Board of Education.

1-1111. Petition for recount by candidate—Procedure—Expenses—Petition for recount by voter to District of Columbia Court of Appeals—Grounds for voiding election.

1-1115. Candidacy for more than one office not permitted—Choice of nominations—Withdrawal from multiple nominations.

§ 1-1101. Election of electors of President and Vice President, the members of the Board of Education, and officials of political parties.

In the District of Columbia electors of President and Vice President of the United States, the members of the Board of Education, and the following officials of political parties in the District of Columbia shall be elected as provided in this chapter:

(1) National committeemen and national committee women;

(2) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) Alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election at large in the District of Columbia. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 1; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1(1); Apr. 22, 1968, Pub. L. 90-292, § 4(1), 82 Stat. 103.)

AMENDMENTS

1968—Section 4(1) of act Apr. 22, 1968, Pub. L. 90-292, amended section by inserting immediately after "Vice President of the United States" the words "the members of the Board of Education."

EFFECTIVE DATE AND TERMINATION OF OFFICE

Section 6(a)¹, act Apr. 22, 1968, Pub. L. 90-292, provided: "The amendments made by this Act [For enumeration of amendments and enactments made by this Act, see Short Title notes under this section and 31-101] shall take effect on May 15, 1968, except that—

"(1) the Board of Education of the District of Columbia, appointed under the Act of June 20, 1906 [section 31-101 et seq.] (as in effect on the date of the enactment of this Act), shall continue to exercise the powers, functions, duties vested in it under such Act (as in effect on such date);

"(2) vacancies in such Board shall be filled by appointment in accordance with such Act (as in effect on such date); and

"(3) the members of such Board appointed under such Act (as in effect on such date) shall continue in office;

until such time as at least six of the members first elected to the Board of Education (under such Act as amended by this Act) take office."

SHORT TITLE

Section 16 of act Aug. 12, 1955, ch. 862, as added Apr. 22, 1968, by Pub. L. 90-292, § 4(9) provided:

"This Act (amending sections 1-1101, 1-1102, 1-1105, 1-1107 to 1-1111 and adding section 15, classified to section 1-1115, and section 16, set out as a note to this section) may be cited as 'District of Columbia Election Act'."

See also Short Title note under section 31-101.

¹ There are no other subsections in section 6.

§ 1-1102. Definitions.

(4) The term "ward" means a school election ward established by the Board under section 1-1105 (a) (4).

(5) The term "Board of Education" means the Board of Education of the District. (As amended, Apr. 22, 1968, Pub. L. 90-292, § 4(2), 82 Stat. 103.)

AMENDMENTS

1967—Section 4(2) of act Apr. 22, 1968, Pub. L. 90-292, amended section by inserting paragraphs (4) and (5).

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-101.

§ 1-1103. Board of elections—Terms of office.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan (set out in the appendix to title 1).

§ 1-1105. Functions and authority of Board.

(a) The Board shall—

(1) maintain a registry, keeping it accurate and current;

(2) conduct registrations and elections;

(3) provide for recording and counting votes by means of ballots or machines or both and not less than five days before each election held pursuant to this chapter, publish in one or more newspapers of general circulation in the District a copy of the official ballot to be used in any such election;

(4) divide the District into appropriate voting precincts, each of which shall contain at least three hundred and fifty registered persons; divide the District into eight compact and contiguous school election wards which shall include such numbers of precincts as will provide approximately equal population within each ward; and reapportion the wards accordingly after each decennial census;

(5)–(8) * * *

(b)–(d) * * *

(As amended Apr. 22, 1968, Pub. L. 90-292, § 4(3), 82 Stat. 103.)

AMENDMENTS

1968—Section 4(3), act Apr. 22, 1968, Pub. L. 90-292, amended section by inserting immediately before the semicolon in paragraph (a) (4) the matter relating to establishment of eight compact and contiguous school election wards and reapportionment thereof.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1102.

§ 1-1106. Board independent agency—District to furnish facilities to Board—Seal.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1107. Registration—Conditions for registration—Registration affidavit—Registration period—Appeal.

(a) A person shall be entitled to vote in an election in the District of Columbia only if he is a qualified elector and, except as provided in subsection (e) of this section, he is duly registered in the District on the date of such election. A person shall be considered duly registered in the District if he registers under this chapter after January 1, 1968, and if after the date he registers no four-year period elapses during which he fails to vote in an election held under this chapter;

(b), (c) * * *

(d) (1) The registry shall be open during reasonable hours, except that the registry shall not be open (A) during the thirty-day period ending on the first Tuesday following the first Monday in November of each odd-numbered calendar year and of each presidential election year, (B) during the thirty-day period ending on the first Tuesday in May in each presidential election year, and (C) during such other period as the Board may provide in the case of a special election.

(2) The Board may close the registry on Saturdays, Sundays, and holidays. While the registry is open, any person may apply for registration or change his registration.

(e) If a person is not permitted to register, such person, or any qualified candidate, may appeal to the Board, but not later than three days after the registry is closed for the next election. The Board shall decide within five days after the appeal is perfected whether the challenged elector is entitled to register. If the appeal is denied, the appellant may, within three days after such denial, appeal to the District of Columbia Court of General Sessions. The decision of such court shall be final and not appealable. If the appeal is upheld by either the Board or the court, the challenged elector shall be allowed to register immediately. If the appeal is pending on election day, the challenged elector may cast a ballot marked "challenged", as provided in section 1-1109 (d). (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 7; Oct. 4, 1961, 75 Stat. 817, 818, Pub. L. 87-

389, § 1 (8, 9, 10, 11); July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Apr. 22, 1968, Pub. L. 90-292, § 4(4), 82 Stat. 103.)

AMENDMENTS

1968—Section 4(4), act Apr. 22, 1968, Pub. L. 90-292, amended subsection (a) by striking out "he registers in the District during the year in which such election is to be held.", and inserted in lieu thereof the matter above set out in subsection (a) relating to registration. Section 4(4), of said act amended subsection (d) to read as above set out in subsection (d) (1), (d) (2) with respect to periods for keeping registry open; and by striking in subsection (e) "Municipal Court for the District of Columbia" and inserting "District of Columbia Court of General Sessions."

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1108.

§ 1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot—Nominations for presidential electors—Names of candidates for President and Vice President to appear on ballot under party designation—Form of ballot—Candidates for electors not to appear on ballot—Nominations by nonqualifying political parties—Qualifications of electors—Nominating petition for election of members of Board of Education—Filing fee—Rules relating to Board of Education petitions—Posting of petitions in a public place—Challenging validity of petition—Board of Elections to determine validity of petitions—Appeal—Arrangement of names on ballot.

(a) Candidates for office participating in an election of the officials referred to in clauses (1), (2), and (3) of section 1-1101 and of officials designated pursuant to clause (4) of such section shall be the persons registered under section 1-1107 who have been nominated for such office by a petition—

(1) prepared and presented to the Board in accordance with rules prescribed by the Board, but not later than forty-five days before the date of the election; and

(2) signed by not less than one hundred voters, registered under section 1-1107, and of the same political party as the nominee.

(b)–(g) * * *

(h) (1) Except in the case of the three members of the Board of Education elected at large, the members of the Board of Education shall be elected by the qualified electors of the respective wards of the District from which the members have been nominated.

(2) In the case of the three members of the Board of Education elected at large, each such member shall be elected by the qualified electors of the District.

(i) Each candidate in a general election for member of the Board of Education shall be nominated for such office by a petition (A) filed with the Board not later than forty-five days before the date of such general election; (B) signed by at least two hundred and fifty persons who are duly registered under section 1-1107 in the ward from which the candidate seeks election, or in the case of a candidate running at large, signed by at least one hundred and twenty-five persons in each ward of the District who are duly registered in such ward; and (C) accompanied

by a filing fee of \$100. Such fee may be refunded only in the event that the candidate withdraws his nomination by writing received by the Board not later than three days after the date on which nominations are closed. A nominating petition for a candidate in a general election for member of the Board of Education may not be circulated for signatures before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions and the posting and disposition of filing fees. In a general election for members of the Board of Education, the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate duly nominated to be elected to such office from such ward, and to vote for as many candidates duly nominated for election at large to such office as there are Board of Education members to be elected at large in such election.

(j) (1) The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatories thereto if the original or facsimile thereof has been posted in a suitable public place for the ten-day period beginning on the forty-second day before the date of the election for such office. Any qualified elector may within such ten-day period challenge the validity of any petition by a written statement duly signed by the challenger and filed with the Board and specifying concisely the alleged defects in such petition. Copy of such challenge shall be sent by the Board promptly to the person designated for the purpose in the nominating petition.

(2) The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged nominating petition not more than eight days after the challenge has been filed. Within three days after announcement of the determination of the Board with respect to the validity of the nominating petition, either the challenger or any person named in the challenged petition as a nominee may apply to the District of Columbia Court of Appeals for a review of the reasonableness of such determination. The court shall expedite consideration of the matter and the decision of such court shall be final and not appealable.

(k) In any election, the order in which the names of the candidates for office appear on the ballot shall be determined by lot, upon a date or dates and under regulations prescribed by the Board. (As amended Apr. 22, 1968, Pub. L. 90-292, § 4(5), 82 Stat. 103.)

AMENDMENTS

1968—Section 4(5), act Apr. 22, 1968, Pub. L. 90-292, amended section by striking out in subsection (a) (1) "thirty days" and inserting in lieu thereof "forty-five days," and by adding at the end thereof subsections (h), (i), (j) and (k).

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

NOTES TO DECISIONS

Scope of review

Since board of elections has undertaken to define and apply its own regulations, Court of Appeals is governed

by prescribed reasonableness standard and cannot substitute its own judgment for reasonable board action. *In re Challenge to Nominating Petitions of E. Haworth, E. M. Washington and F. M. McCoy* (D.C. App. 1969, 258 A. 2d 447).

Congress having provided judicial review of action of District of Columbia Board of Elections, did not intend to permit Board to finally decide questions of law, and prescribed standard for review permitted Court of Appeals to determine such issues. *Id.*

Time limitation for determining validity of challenge

This section which provides that board of elections shall determine validity of challenges to nominating petitions not more than eight days after challenge has been filed is directory only, and where eighth day fell on Saturday and determination was postponed to following Monday, delay beyond the eight-day period did not deprive board of jurisdiction to rule upon pending challenges. *In re Challenge to Nominating Petitions of E. Haworth, E. N. Washington and F. M. McCoy* (D.C. App. 1969, 258 A. 2d 447).

Validity of petition

A candidate for election to board of education failed to qualify because a group of signatures on his nominating petition from one ward were invalid because signers were not registered in District of Columbia at time of signing, leaving petition with less than requisite 125 signatures from ward. *In re Challenge to Nominating Petitions of E. Haworth, E. N. Washington and F. M. McCoy* (D.C. App. 1969, 258 A. 2d 447).

Nominating petition of a candidate for board of education which was invalid because of lack of requisite number of valid signatures was not validated by list of additional names presented after filing. *Id.*

Validity of signatures

A candidate for board of education was required to file a nominating petition signed by at least 125 persons in each ward and petition contained some signatures of persons registered in District of Columbia and living in a designated ward who, by virtue of previous residence, were on rolls of another ward, filing of the petition constituted notice to board of elections of signers' changes of address, and signatures were properly counted as valid. *In re Challenge to Nominating Petitions of E. Haworth, E. M. Washington and F. M. McCoy* (D.C. App. 1969, 258 A. 2d 447).

A person who is not registered in District of Columbia when signing a petition could not validly sign nominating petition for candidate and then register after petition was filed with board of elections. *Id.*

§ 1-1109. Method of voting—Place—Watchers—Challenging of vote—Appeal from challenged ballots—Handicapped and absent voters—Voting in party elections.

(a) Voting in all elections shall be secret.

(b) The vote of a person who is registered as a resident of the District shall be valid only if cast in the voting precinct where the residence shown on his registration is located. The Board shall by regulation permit voting by any registered elector who is absent from the District or who, because of his physical condition, is unable to vote in person at the polling place in his voting precinct on election day.

(c), (d) * * *

(e) If a person has been permitted to vote only by challenged ballot, such person, or any qualified candidate, may appeal to the Board within three days after election day. The Board shall decide within seven days after the appeal is perfected whether the voter was qualified to vote. If the appeal is denied, the appellant may within three days of such denial appeal to the District of Columbia Court of General Sessions. The decision of such court shall be final and not appealable. If the Board decides that the

voter was qualified to vote, the word "challenged" shall be stricken from the voter's ballot and the ballot shall be treated as if it had not been challenged.

(f)–(h) * * *

(As amended Apr. 22, 1968, Pub. L. 90-292, § 4(6), 82 Stat. 104.)

AMENDMENTS

1968—Section 4(6), act Apr. 22, 1967, Pub. L. 90-292, amended subsection (b) by striking out "for electors of President and Vice President"; and subsection (e) by striking "Municipal Court for the District of Columbia" and inserting "District of Columbia Court of General Sessions."

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

§ 1-1110. Dates for holding elections—Voting hours—Method of deciding tie votes—Naming successor to official who dies, resigns, or is unable to serve—Votes cast for President and Vice President to be counted as votes for presidential electors—Election of ward and at large members of Board of Education—Runoff elections—Filling of vacancies on Board of Education.

(a) (1) The elections of the officials referred to in clauses (1), (2), and (3) of section 1-1101 and of officials designated pursuant to clause (4) of such section shall be held on the first Tuesday in May of each presidential election year.

(2) The electors of President or Vice President of the United States shall be elected on the Tuesday next after the first Monday in November in every fourth year succeeding every election of a President and Vice President of the United States. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presidential and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners, except that in the case of a tie it shall be resolved in the same manner as is provided in subsection (c) of this section.

(3) The first general election for members of the Board of Education shall be held on November 5, 1968, and thereafter on the Tuesday next after the first Monday in November of each odd-numbered calendar year.

(4) (A) If in a general election for members of the Board of Education no candidate for the office of member from a ward, or no candidate for the office of member elected at large (where only one at-large position is being filled at such election), receives a majority of the votes validly cast for such office, a runoff election shall be held on the twenty-first day next following such election. The candidate receiving the highest number of votes in such runoff election shall be declared elected.

(B) When more than one office of member elected at large is being filled at such a general election, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive a majority of the number of all votes cast for candidates for election at large in such election divided by the number of at-large offices to be filled in such election. Where one or more of the at-large positions remains unfilled, a runoff election shall be

held as provided in subparagraph (A) of this paragraph, and the candidate or candidates receiving the highest number of votes in such runoff election shall be declared elected.

(C) Where a vacancy in an unexpired term for an at-large position is being filled at the same general election as one or more full term at-large positions, the successful candidate or candidates with the highest number of votes in the general election, or in the runoff election if a runoff election is necessary, shall be declared elected to the full term position or positions, provided that any candidate declared elected at the general election shall for this purpose be deemed to have received a higher number of votes than any candidate elected in the runoff election.

(D) The Board may resolve any tie vote occurring in an election governed by this paragraph by requiring the candidates receiving the tie vote to cast lots at such time and in such manner as the Board may prescribe.

(5) In the case of a runoff election for the office of member of the Board of Education elected at large, the candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in the general election next preceding such runoff election received the highest number of votes less than a majority. In the case of a runoff election for the office of member of the Board of Education from a ward, the runoff election shall be held in such ward, and the two candidates who in the general election next preceding such runoff election received respectively the highest number and the second highest number of votes validly cast in such ward or who tied in receiving the highest number of such votes shall run in such runoff election. If in any case (other than the one described in the preceding sentence) a tie vote must be resolved to determine the candidates to run in any runoff election, the Board may resolve such tie vote by requiring the candidates receiving the tie vote to cast lots at such time and in such manner as the Board may prescribe.

(6) If any candidate withdraws (in accordance with such rules and time limits as the Board shall prescribe) from a runoff election held to select a member of the Board of Education or dies before the date of such election, the candidate who received the same number of votes in the general election next preceding such runoff election as a candidate in such runoff election or who received a number of votes in such general election which is next highest to the number of votes in such general election received by a candidate in the runoff election and who is not a candidate in such runoff election shall be a candidate in such runoff election. The resolution of any tie necessary to determine the candidate to fill the vacancy caused by such withdrawal or death shall be resolved by the Board in the same manner as ties are resolved under paragraph (5).

(b) All elections prescribed by this chapter shall be conducted by the Board in conformity with the provisions of this chapter. In all elections held pursuant to this chapter the polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian.

Candidates receiving the highest number of votes in elections held pursuant to this chapter, other than general elections for members of the Board of Education, shall be declared the winners;

(c) In the case of a tie vote in any election other than an election for members of the Board of Education, the candidates receiving the tie vote shall cast lots before the Board, at 12 o'clock noon on a date to be set by the Board, but not sooner than ten days following the election, and the one to whom the lot shall fall shall be declared the winner. If any candidate or candidates, receiving a tie vote, fail to appear before 12 o'clock noon on said day, the Board shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy appointed in writing.

(d) In the event that any official, other than a member of the Board of Education, elected pursuant to this chapter dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this chapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee: *Provided*, That such successor shall have the qualifications required by this Act for such office.

(e) Whenever a vacancy occurs in the office of member of the Board of Education, such vacancy shall be filled at the next general election for members of the Board of Education which occurs more than ninety-nine days after such vacancy occurs. However, the Board of Education shall appoint a person to fill such vacancy until the unexpired term of the vacant office ends or until the fourth Monday in January next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill a vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this subsection shall have the same qualifications for holding such office as were required of his immediate predecessor. (Aug. 12, 1955, 69 Stat. 702, ch. 862, § 10; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87-389, § 1(18, 19, 20); Apr. 22, 1968, Pub. L. 90-292, § 4(7), 82 Stat. 105.)

AMENDMENTS

1968—Section 4(7), act Apr. 22, 1968, Pub. L. 90-292, amended section as follows:

(1) struck out the second and third sentences of paragraph (1) of subsection (a) and the second sentence of paragraph (2) thereof;

(2) added at the end of subsection (a) paragraphs (3), (4), (5), and (6);

(3) subsection (b) was amended to read as above set out; see main edition for provisions of subsection (b) before this amendment;

(4) inserted after "In the case of a tie" in subsection (c) "vote in any election other than an election for members of the Board of Education,";

(5) inserted after "official" in subsection (d), "other than a member of the Board of Education,"; and

(6) added at the end and thereof subsection (e).

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-101.

§1-1111. Petition for recount by candidate—Procedure—Expenses—Petition for recount by voter to District of Columbia Court of Appeals—Grounds for voiding election.

(a) * * *

(b) Within seven days after the Board certifies the results of an election, any person who voted in the election may petition the District of Columbia Court of Appeals to review such election. In response to such a petition, the court may set aside the results so certified and declare the true results of the election, or void the election in whole or in part. To determine the true results of an election the court may order a recount or take other appropriate action, whether or not a recount has been conducted or requested pursuant to subsection (a). The court shall void an election only for fraud, mistake, the making of expenditures by a candidate in violation of this chapter, or other defect, serious enough to vitiate the election as a fair expression of the will of the registered qualified electors voting therein. If the court voids an election it may order a special election, which shall be conducted in such manner (comparable to that prescribed for regular elections), and at such time, as the Board shall prescribe. The decision of such court shall be final and not appealable. (Aug. 12, 1955, 69 Stat. 703, ch. 862, § 11; Apr. 22, 1968, Pub. L. 90-292, § 4(8), 82 Stat. 106.)

AMENDMENT

1968—Section 4(8), act Apr. 22, 1968, Pub. L. 90-292, amended subsection (b) by striking out "the United States District Court for the District of Columbia" and inserted in lieu thereof "the District of Columbia Court of Appeals".

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

§1-1115. Candidacy for more than one office not permitted—Choice of nominations—Withdrawal from multiple nominations.

No person shall be a candidate for more than one office on the Board of Education in any election for members of the Board of Education. If a person is nominated for more than one such office, he shall, within three days after the Board has sent him notice that he has been so nominated, designate in writing the office for which he wishes to run, in which case he will be deemed to have withdrawn all other nominations. In the event that such person fails within such three-day period to file such a designation with the Board, all such nominations of such person shall be deemed withdrawn. (Aug. 12, 1955, ch. 862, § 15; as added Apr. 22, 1968, Pub. L. 90-292, § 4(9), 82 Stat. 106.)

AMENDMENT

1968—Section 4(9), act Apr. 22, 1968, Pub. L. 90-292, added this section and section 16 which is set out as a note to section 1-1101.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 1-1101.

Chapter 12.—PRESIDENTIAL INAUGURAL CEREMONIES

Sec.

1-1202. Regulations—Special registration tags for certain motor vehicles.

1-1211. "Commissioners" deemed to refer to Commissioner of the District of Columbia.

§1-1201. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§1-1202. Regulations—Special registration tags for certain motor vehicles.

(a) For each inaugural period the District of Columbia Council is authorized and directed to make all reasonable regulations necessary to secure the preservation of public order and protection of life, health, and property; to make special regulations respecting the standing, movement, and operation of vehicles of whatever character or kind during such period; and to grant, under such conditions as it may impose, special licenses to peddlers and vendors for the privilege of selling goods, wares, and merchandise in such places in the District of Columbia, and to charge such fees for such privilege, as it may deem proper.

(b) The Commissioner of the District of Columbia is authorized to issue, for both duly registered motor vehicles and unregistered motor vehicles made available for the use of the Inaugural Committee, special registration tags, valid for a period not exceeding ninety days, designed to celebrate the occasion of the inauguration of the President and Vice President. (Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 2; Jan. 30, 1968, Pub. L. 90-251, § 1, 82 Stat. 4.)

AMENDMENTS

1968—Section 1, act Jan. 30, 1968, Pub. L. 90-251, amended section to read as above set out. For provisions of this section prior to this amendment, see 1967 edition of the code.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(33) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§1-1203. Appropriations—Expenses for which same may be used.

There are hereby authorized to be appropriated such sums as may be necessary, payable in like manner as other appropriations for the expenses of the District of Columbia, to enable the Commissioners to provide additional municipal services in said District during the inaugural period, including employment of personal services without regard to the civil-service and classification laws; travel expenses of enforcement personnel, including sanitarians, from other jurisdictions; hire of means of transportation; meals for policemen, firemen and other municipal employees, cost of removing and relocating streetcar loading platforms, construction, rent, maintenance, and expenses, incident to the operation of temporary public comfort stations, first-

aid stations, and information booths; and other incidental expenses in the discretion of the Commissioners; and such sums as may be necessary, payable in like manner as other appropriations for the expenses of the Department of the Interior, to enable the Secretary of the Interior to provide meals for the members of the United States Park Police during the inaugural period. (Aug. 6, 1956, 70 Stat. 1049, ch. 974, § 3; Jan. 30, 1968, Pub. L. 90-251, § 2, 82 Stat. 4.)

AMENDMENTS

1968—Section 2, act Jan. 30, 1968, Pub. L. 90-251, amended section by:

(a) Striking "travel expenses of enforcement personnel from other jurisdictions" and inserting in lieu thereof "travel expenses of enforcement personnel, including sanitarians, from other jurisdictions";

(b) Striking "policemen and firemen" and inserting in lieu thereof "policemen, firemen and other municipal employees"; and

(c) Striking the period at the end of the section and inserting the matter beginning with "; and such sums" and ending with "inaugural period."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

§ 1-1204. Permits for use of grounds and reservations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1205. Installation of electrical facilities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1207. Permission for installation of communication facilities—When to be removed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1208. Regulations and licenses to be in force only during inaugural period—Publication of regulations—Penalties for violations.

The regulations and licenses authorized by this chapter shall be in full force and effect only during the inaugural period. Such regulations shall be published in one or more of the daily newspapers published in the District of Columbia and no penalty prescribed for the violation of any such regulation shall be enforced until five days after such publication. Any person violating any regulation promulgated by the District of Columbia Council under the authority of this chapter shall be fined not more than \$100 or imprisoned not more than thirty days. Each and every day a violation of such regulation exists shall constitute a separate offense, and the penalty prescribed shall be applicable to each such separate offense. (Aug. 6, 1956, 70 Stat. 1051, ch. 974, § 8; Jan. 30, 1968, Pub. L. 90-251, § 3, 82 Stat. 4.)

AMENDMENT

1968—Section 3, act Jan. 30, 1968, Pub. L. 90-251, amended section by striking out "Commissioners" and inserting in lieu thereof "District of Columbia Council".

§ 1-1211. "Commissioners" deemed to refer to Commissioner of the District of Columbia.

Whenever the term "Commissioners" is used in this chapter, such term will be deemed to refer to the Commissioner of the District of Columbia. (Aug. 6, 1956, ch. 974, § 10, as added Jan. 30, 1968, Pub. L. 90-251, § 4, 82 Stat. 4.)

Chapter 13.—WASHINGTON METROPOLITAN REGION DEVELOPMENT

§ 1-1302. Policy—Exercise of functions of all governmental authorities to be coordinated.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1304. All agencies of federal, district and regional governments are invited to make intensive study of final report of Joint Committee on Washington Metropolitan Problems.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 14.—NATIONAL CAPITAL REGION TRANSPORTATION

SUBCHAPTER V.—ADOPTED REGIONAL SYSTEM

Sec.

1-1441. Definitions.

1-1442. Authorization of Federal contributions.

Sec.

1-1443. Authorization of District of Columbia contributions.

1-1444. Construction approvals.

1-1445. Repayment from excess revenues.

SUBCHAPTER I.—NATIONAL CAPITAL TRANSPORTATION PROGRAM

PART I.—SHORT TITLE, STATEMENT OF FINDINGS AND POLICY, AND DEFINITIONS

§ 1-1401. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(1), 83 Stat. 322.

The above section is a part of the act of July 14, 1960, Pub. L. 86-669, 74 Stat. 537, which was classified to sections 1-1401 to 1-1409, and as a note to section 1-1401.

Section 1-1401 consisted of a statement of findings and policy.

Section 1-1402 consists of definitions.

Section 1-1403 established the National Capital Transportation Agency.

Section 1-1404 was repealed by Pub. L. 89-774, § 5(b) on Nov. 6, 1966, see note under that section.

Section 1-1405 authorized the Administrator to establish advisory and coordinating committees.

Section 1-1406 directed the agency to prepare for approval a Transit Development Program.

Section 1-1407 outlined the functions and duties of the agency.

Section 1-1408 authorized the negotiation of compact between Virginia, Maryland, and the District of Columbia.

Section 1-1409 contained separability provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1422.

§ 1-1401a. Agreements with Maryland and Virginia to develop continuing comprehensive transportation planning process.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1422.

§ 1-1402. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(1), 83 Stat. 322.

The above section is a part of the act of July 14, 1960, Pub. L. 86-669, 74 Stat. 537, which was classified to sections 1-1401 to 1-1409, and as a note to section 1-1401.

Section 1-1401 consisted of a statement of findings and policy.

Section 1-1402 consists of definitions.

Section 1-1403 established the National Capital Transportation Agency.

Section 1-1404 was repealed by Pub. L. 89-774, § 5(b) on Nov. 6, 1966, see note under that section.

Section 1-1405 authorized the Administrator to establish advisory and coordinating committees.

Section 1-1406 directed the agency to prepare for approval a Transit Development Program.

Section 1-1407 outlined the functions and duties of the agency.

Section 1-1408 authorized the negotiation of compact between Virginia, Maryland, and the District of Columbia.

Section 1-1409 contained separability provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1422.

PART II.—CREATION OF NATIONAL CAPITAL TRANSPORTATION AGENCY

§ 1-1403. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(1), 83 Stat. 322.

The above section is a part of the act of July 14, 1960, Pub. L. 86-669, 74 Stat. 537, which was classified to sections 1-1401 to 1-1409, and as a note to section 1-1401.

Section 1-1401 consisted of a statement of findings and policy.

Section 1-1402 consists of definitions.

Section 1-1403 established the National Capital Transportation Agency.

Section 1-1404 was repealed by Pub. L. 89-774, § 5(b) on Nov. 6, 1966, see note under that section.

Section 1-1405 authorized the Administrator to establish advisory and coordinating committees.

Section 1-1406 directed the agency to prepare for approval a Transit Development Program.

Section 1-1407 outlined the functions and duties of the agency.

Section 1-1408 authorized the negotiation of compact between Virginia, Maryland, and the District of Columbia.

Section 1-1409 contained separability provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1422.

§ 1-1404. Repealed. Nov. 6, 1966, 80 Stat. 1353, Pub. L. 89-774, § 5(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-1422, 9-220.

§§ 1-1405 to 1-1407. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(1), 83 Stat. 322.

The above sections are a part of the act of July 14, 1960, Pub. L. 86-669, 74 Stat. 537, which was classified to sections 1-1401 to 1-1409, and as a note to section 1-1401.

Section 1-1401 consisted of a statement of findings and policy.

Section 1-1402 consists of definitions.

Section 1-1403 established the National Capital Transportation Agency.

Section 1-1404 was repealed by Pub. L. 89-774, § 5(b) on Nov. 6, 1966, see note under that section.

Section 1-1405 authorized the Administrator to establish advisory and coordinating committees.

Section 1-1406 directed the agency to prepare for approval a Transit Development Program.

Section 1-1407 outlined the functions and duties of the agency.

Section 1-1408 authorized the negotiation of compact between Virginia, Maryland, and the District of Columbia.

Section 1-1409 contained separability provisions.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1-1422.

PART III.—AUTHORIZATION FOR NEGOTIATIONS OF INTERSTATE COMPACT

§§ 1-1408, 1-1409. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(1), 83 Stat. 322.

The above sections are a part of the act of July 14, 1960, Pub. L. 86-669, 74 Stat. 537, which was classified to sections 1-1401 to 1-1409, and as a note to section 1-1401.

Section 1-1401 consisted of a statement of findings and policy.

Section 1-1402 consists of definitions.

Section 1-1403 established the National Capital Transportation Agency.

Section 1-1404 was repealed by Pub. L. 89-774, § 5(b) on Nov. 6, 1966, see note under that section.

Section 1-1405 authorized the Administrator to establish advisory and coordinating committees.

Section 1-1406 directed the agency to prepare for approval a Transit Development Program.

Section 1-1407 outlined the functions and duties of the agency.

Section 1-1408 authorized the negotiation of compact between Virginia, Maryland, and the District of Columbia.

Section 1-1409 contained separability provisions.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1-1422.

SUBCHAPTER II.—COMPACT FOR MASS TRANSPORTATION

§ 1-1410. Consent of Congress given for Virginia, Maryland and District of Columbia to enter into compact for regulation of mass transportation in Washington metropolitan area.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to this title.

NOTES TO DECISIONS

Abuse of discretion

Commission's refusal to consider a motion for reconsideration of decision of Washington Metropolitan Area Transit Commission as being timely, where it was filed on 30th day after issuance of the order increasing fares charged by bus company, although objector's agent arrived several minutes after closing time of Commission's offices and slid the motion under the door where it was seen later by executive director of Commission, was an abuse of discretion. *J. Yohalem v. Washington Metropolitan Area Transit Commission, et ano.* (1969, 412 F. 2d 1124, — U.S. App. D.C. —).

Considerations in making fare adjustments

The court concluded on the issue of fare adjustments, that the Transit Commission is required to consider not only the justness and reasonableness of fares charged or proposed to be charged by the carrier, in the sense of meeting overall revenue requirements, but also whether such fares are "unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District." *T. E. Payne etc., et al. v. Washington Metropolitan Area Transit Commission, D.C. Transit System Inc., etc.* (1968, 415 F. 2d 901, — U.S. App. D.C. —).

Evidence—Sufficiency

In prosecution for wilfully, as a carrier, engaging in transportation for hire of persons by motor vehicle without first obtaining certificate of public convenience and necessity the conflicting evidence presented a question of fact for determination by the trial judge and supported finding that arrangement between defendants and licensed carrier constituted a lease, not a charter. *Holiday Tours, Inc., et ano. v. District of Columbia* (D.C. App. 1967, 234 A. 2d 179).

Evidence supported finding that arrangement, whereby defendants leased one of their own buses to a licensed carrier and carrier, without taking physical possession of bus, chartered it back to defendants, was a subterfuge, rather than a bona fide charter. *Id.*

Findings of Commission

The court held that the findings of Washington Metropolitan Area Transit Commission are conclusive if supported by substantial evidence, and it is not a valid objection that conflicts in the evidence might conceivably have been resolved differently, or other inferences drawn from the same record. *T. E. Payne etc., et al. v. Washington*

Metropolitan Area Transit Commission, D.C. Transit System Inc., etc. (1968, 415 F. 2d 901, — U.S. App. D.C. —).

The Court of Appeals held that it must sustain findings of Transit Commission when they materialize as rational deductions grounded on substantial evidence in the record considered as a whole. *R. A. Williams et ano. v. Washington Metropolitan Area Transit Commission, D.C. Transit System Inc., Democratic Central Committee, etc., et al.* (1968, 415 F. 2d 922, — U.S. App. D.C. —, cert. denied 89 S. Ct. 860).

Grandfather rights

Grandfather rights in Washington Metropolitan Area Transit Regulation Compact, expressly contemplated the issuance of certificates, without new or further proof of public convenience and necessity, to those "bona fide engaged in transportation" on the effective date of the statute. *D.C. Transit System, Inc. v. Washington Metropolitan Area Transit Commission, et ano.* (1967, 376 F. 2d 765, 126 U.S. App. D.C. 210).

Transit operator existing prior to Washington Metropolitan Area Transit Regulation Compact was given no exclusive and permanent monopolies, and commission could, with due observance of requirements of statute and upon proper findings, grant certificate authority competitive with that held by prior existing certificate holder. *Id.*

Interim rate increase

There is little doubt that the Washington Metropolitan Area Transit Commission has general authority to issue interim orders although the evidence introduced does not enable the tribunal to dispose of the issues completely or permanently, and under the compact the Commission has authority to modify existing rates upon making a finding that existing rates are unjust and unreasonable. *T. E. Payne etc., et al. v. Washington Metropolitan Area Transit Commission, D.C. Transit System Inc., etc.* (1968, 415 F. 2d 901, — U.S. App. D.C. —).

The court held that in making an interim rate increase the Washington Metropolitan Area Transit Commission was not required to make the full and complete findings as to margin of return and fare structure that must accompany an exercise of its authority to prescribe permanent rates, but its discretion must be exercised rationally, and it may not act without making relevant findings, supported by the record, to sustain its action. *Id.*

The court held further that given the inadequacy of the record and the need for further inquiry, the danger of serious consequences to transit company and the public if no fare increase were granted in the interim, and the undesirability of imposing unreasonably high fares on the public, the ordering of an interim rate increase by Washington Metropolitan Area Transit Commission was within the bounds of its authority and was supported by the findings it made. *Id.*

Limited suspension of proposed tariffs

In this case the court concluded that the action of Washington Metropolitan Area Transit Commission in suspending transit company's proposed tariffs for a total period of 150 days from the date of filing was lawful, the issue being governed by the suspension provisions of the Compact and not by those contained in transit company's franchise. *T. E. Payne etc., et al. v. Washington Metropolitan Area Transit Commission, D.C. Transit System Inc., etc.* (1968, 415 F. 2d 901, — U.S. App. D.C. —).

Public convenience and necessity

Under Washington Metropolitan Area Transit Regulation Compact, commission could not extend routes, in District, of carriers which had, prior to compact, received authority from joint board to traverse certain streets to terminal points, in a manner competitively adverse to holder of certificate issued prior to compact without taking into account the limiting statutory conditions which involved a concept of public convenience and necessity far beyond that of carriers' passengers. *D.C. Transit System, Inc. v. Washington Metropolitan Area Transit Commission, et ano.* (1967, 376 F. 2d 765, 126 U.S. App. D.C. 210).

Under Washington Metropolitan Area Transit Regulation Compact, convenience of passengers was not, under regulatory scheme, sole criterion for extension of routes in a manner competitively adverse to holder of certificate granted prior to compact. *Id.*

Retroactive rates

The court held that the Commission possesses no authority to fix rates for the past; an order prescribing lawful fares to be charged by public utility, being essentially legislative in character, ordinarily speaks only for the future. *R. A. Williams, et ano. v. Washington Metropolitan Area Transit Commission, D.C. Transit System Inc., Democratic Central Committee etc., et al.* (1968, 415 F. 2d 922, — U.S. App. D.C. —, cert. denied 89 S. Ct. 860).

§ 1-1410a. Consent of Congress given to make certain amendments to mass transportation compact.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1411. Commissioners authorized and directed to enter into compact and carry out terms thereof—Appropriations authorized for District of Columbia—Commissioners may not adopt amendment to compact without prior approval of Congress.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1412. Suspension of certain laws for duration of compact—Reinstatement of laws upon termination of compact—Certain police powers of parties to compact and Directors of National Park Service not affected—Franchise rights and obligations of D.C. Transit System, Inc., not impaired—"Public Interest" includes interest of carrier employees—Laws relating to carrier employee benefits, wages, hours and working conditions, collective bargaining rights, rights to self organization continue in force—Jurisdiction of Public Service Commission and Interstate Commerce Commission transferred to Washington Metropolitan Area Transit Commission.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1416. Reservation of right to alter, amend or repeal—Submission of periodic report to Congress—Disclosure of information—Access to books and records.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except

as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER III.—RAIL RAPID TRANSIT**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in sections 1-1442, 9-220.

§ 1-1421. Statement of findings and purpose.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 1-1422, 1-1423. Repealed. Dec. 9, 1969, Pub. L. 91-143, section 8(a)(2), 83 Stat. 323.

These sections are sections 3 and 4 of the act of Sept. 8, 1965, Pub. L. 89-173, 79 Stat. 664-665, as amended by Pub. L. 90-220, section 1. Section 1-1422 outlines the actions the agency was authorized to take in connection with the rapid rail transit system and section 1-1423 authorized the former commissioners to provide relocation assistance to those who were displaced as a result of the acts of the agency.

§ 1-1424. Appropriations authorized.

The cost of designing, engineering, constructing, and equipping the facilities of the Adopted Regional System (as defined in section 1-1441(1)) shall be financed in part by the Federal and District of Columbia Governments, as follows:

(1) To finance the United States portion there is hereby authorized to be appropriated to the Agency not to exceed \$100,000,000, which shall remain available until expended;

(2) To finance the District of Columbia portion there is hereby authorized to be appropriated to the Agency out of the general fund of the District of Columbia not to exceed \$50,000,000, which shall remain available until expended. (Sept. 8, 1965, 79 Stat. 665, Pub. L. 89-173, § 5(a); Dec. 9, 1969, Pub. L. 91-143, § 8(b), 83 Stat. 323.)

CODIFICATION

Subsection (b) of this section is classified to section 9-220.

AMENDMENTS

1969—Section 8(b), act Dec. 9, 1969, Pub. L. 91-143 amended the introductory part of the section by striking out "authorized in section 3 (1-1422) hereof" and inserting in lieu thereof, "of the Adopted Regional System (as defined in section 2(1) (1-1441(1)) of the National Capital Transportation Act of 1969".

CROSS REFERENCES

Authority of appropriations to Department of Housing and Urban Development, and to District of Columbia, for payment to Washington Metropolitan Area Transit Authority, of any unappropriated portions of authorizations specified in pars. (1) and (2) of this section, see § 1-1433(b).

Loans for carrying out purposes of this subchapter, see § 9-220(b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-1442, 1-1443 of this title.

SUBCHAPTER IV.—WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1-1441 of this title.

§ 1-1431. Consent of Congress given for, and adoption of, compact amending compact set out under section 1-1410.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(425) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, with respect to appointing two directors as specified in section 5(a) of the compact set out as a note to this section. The appointments to be made from a group of individuals, as specified in par. 425 of the Plan, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to this title.

§ 1-1432. Authority and duty of Commissioners to execute and carry out compact.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 1-1433. Transfer of function, property, documents, etc.—Appropriations—Development of Plans—Advisory services.

TRANSFER OF FUNCTIONS

Section 1(a) (3) of Reorg. Plan No. 2, of 1968, eff. June 30, 1968, transferred the functions of the Department of Housing and Urban Development, under subsection (b) of this section, to the Secretary of Transportation. For complete details of the Plan, see appendix to this title.

§ 1-1436. Reservation of right to alter, amend or repeal—Submission of reports to Congress—Disclosure of information—Access to books and records—Audits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER V.—ADOPTED REGIONAL SYSTEM

§ 1-1441. Definitions.

For the purposes of this Act—

(1) The term "Adopted Regional System" means that system described in the Transit Authority's report entitled "Adopted Regional Rapid Rail Transit Plan and Program, March 1, 1968 (revised February 7, 1969)", as that system may

hereafter be altered, revised, or amended in accordance with the Compact.

(2) The term "Compact" means the Washington Metropolitan Area Transit Authority Compact (Public Law 89-774; 80 Stat. 1324).

(3) The term "Transit Authority" means the Washington Metropolitan Area Transit Authority established under article III of the Compact. (Dec. 9, 1969, Pub. L. 91-143, § 2, 83 Stat. 320.)

REFERENCES IN TEXT

This "Act" referred to in text is the act of Dec. 9, 1969, Pub. L. 91-143, enacting sections 1-1441 to 1-1445, the notes to section 1-1441, amending section 9-220(b) (3), repealing sections 1-1401 to 1-1409, 1-1422 and 1-1423 and amending section 1-1424. The "Compact" referred to in par. (2) is set out as a note to section 1-1431.

SHORT TITLE

Section 1, act Dec. 9, 1969, Pub. L. 91-143, provided: "This Act [Enacting sections 1-1441 to 1-1445, the notes to section 1-1441, amending section 9-220(b) (3), repealing sections 1-1401 to 1-1409, 1-1422 and 1-1423 and amending section 1-1424] may be cited as the 'National Capital Transportation Act of 1969' "

STUDY OF DULLES AIRPORT EXTENSION

Section 7 of act Dec. 9, 1969, Pub. L. 91-143 provided:

"The Secretary of Transportation is authorized to contract with the Transit Authority for a comprehensive study of the feasibility, including preliminary engineering, of extending a transit line in the median of the Dulles Airport Road from the vicinity of Virginia Route 7 on the I-66 Route of the Adopted Regional System to the Dulles International Airport.

"(b) The study to be undertaken pursuant to subsection (a) of this section shall be completed within six months after execution of the contract authorized therein at a cost not in excess of \$150,000; and there is authorized to be appropriated not to exceed \$150,000 to carry out the purposes of this section."

§ 1-1442. Authorization of Federal contributions.

(a) To provide the Federal share of the cost of the Adopted Regional System, which system supersedes that heretofore authorized by the Congress in the National Capital Transportation Act of 1965 (Public Law 89-173; 79 Stat. 663), the Secretary of Transportation is authorized to make annual contributions to the Transit Authority in amounts sufficient to finance in part the cost of the Adopted Regional System; except that the aggregate amount of Federal contributions for the Adopted Regional System, including the \$100,000,000 authorized to be appropriated by section 5(a) (1) of the National Capital Transportation Act of 1965, shall not exceed the lower amount of \$1,147,044,000 or two-thirds of the net project cost of the Adopted Regional System.

(b) Federal contributions for the Adopted Regional System shall be subject to the following limitations and conditions:

(1) The work for which contributions are authorized shall be subject to the provisions of the Compact and shall be carried out substantially in accordance with the plans and schedules for the Adopted Regional System.

(2) The aggregate amount of such Federal contributions on or prior to the last day of any given fiscal year shall be matched by the local participating governments by payment of the local share of capital contributions required for the period

ending with the last day of such year in a total amount not less than 50 per centum of the amount of such Federal contributions.

(c) There is authorized to be appropriated to the Secretary of Transportation, without fiscal year limitation, not to exceed \$1,047,044,000 to carry out the purposes of this section. The appropriations authorized by this subsection shall be in addition to the appropriations authorized by section 5(a)(1) of the National Capital Transportation Act of 1965. (Dec. 5, 1969, Pub. L. 91-143, § 3, 83 Stat. 320.)

REFERENCES IN TEXT

The National Capital Transportation Act of 1965, Pub. L. 89-173, is classified to 1-1421 to 1-1426 and 9-220; section 5(a)(1) thereof is set out as 1-1424.

§ 1-1443. Authorization of District of Columbia contributions.

(a) To provide the District of Columbia share of the cost of the Adopted Regional System, the Commissioner of the District of Columbia is authorized to contract with the Transit Authority to make annual capital contributions aggregating not to exceed \$216,500,000. To carry out the purposes of this section there is authorized to be appropriated out of the general fund of the District of Columbia, without fiscal year limitation, not to exceed \$166,500,000.

(b) [This subsection is an amendment of section 9-220 (b) (3) and is set out therein.]

(c) The appropriations authorized by subsection (a) of this section shall be in addition to the appropriations authorized on behalf of the District of Columbia by section 5(a)(2) of the National Capital Transportation Act of 1965.

(d) The Commissioner of the District of Columbia is further authorized to contract with the Transit Authority and to pay in accordance with the terms thereof for the service to be provided to the District of Columbia by the Adopted Regional System. (Dec. 9, 1969, Pub. L. 91-143, § 4, 83 Stat. 321.)

REFERENCE IN TEXT

Section 5(a)(2) of the National Capital Transportation Act of 1965, is classified to section 1-1424.

§ 1-1444. Construction approvals.

(a) No portion of the Adopted Regional System shall be constructed within the United States Capitol Grounds except upon approval of the Commission for Extension of the United States Capitol.

(b) Construction of the Adopted Regional System in, on, under, or over public space in the District of Columbia under the jurisdiction of the Commissioner of the District of Columbia shall, in the interest of public convenience and safety, be performed in accordance with schedules agreed upon between the Transit Authority and the Commissioner, to the end that such construction work will be coordinated with other construction work in such public space; and the Commissioner shall so exercise his jurisdiction and control over such public space as to facilitate the Transit Authority's use and occupation thereof for construction of the Adopted Regional System. (Dec. 9, 1969, Pub. L. 91-143, § 5, 83 Stat. 322.)

§ 1-1445. Repayment from excess revenues.

To the extent that revenues or other receipts derived from or in connection with the ownership or operation of the Adopted Regional System (other than service payments under transit service agreements executed between the Transit Authority and local political subdivisions, the proceeds of bonds or other evidences of indebtedness issued by the Transit Authority, and capital contributions received by the Transit Authority) are excess to the amounts necessary to make all payments, including debt service, operating and maintenance expenses, and deposits in reserves required or permitted by the terms of any contract of the Transit Authority with or for the benefit of holders of its bonds, notes, or other evidences of indebtedness issued for any purpose relating to the Adopted Regional System, other than extensions thereof, two-thirds of such excess revenues shall, at the end of each fiscal year, beginning with the fiscal year in which the Adopted Regional System (exclusive of extensions) is first put into substantially full revenue service, be paid into the Treasury of the United States as miscellaneous receipts. (Dec. 9, 1969, Pub. L. 91-143, § 6, 83 Stat. 322.)

Chapter 15.—ADMINISTRATIVE PROCEDURE

Sec.

- 1-1501. Other authority.
- 1-1502. Definition.
- 1-1503. Establishment of general procedures.
- 1-1504. Official publication.
- 1-1505. Public notice and participation in rulemaking.
- 1-1506. Filing and publishing of rules.
- 1-1507. Compilation of rules.
- 1-1508. Declaratory orders.
- 1-1509. Contested cases.
- 1-1510. Judicial review.

§ 1-1501. Other authority.

This chapter shall supplement all other provisions of law establishing procedures to be observed by the Commissioner, the Council, and agencies of the District government in the application of laws administered by them, except that this chapter shall supersede any such law and procedure to the extent of any conflict therewith. (Oct. 21, 1968, Pub. L. 90-614, § 2, 82 Stat. 1204.)

SHORT TITLE

Section 1, act Oct. 21, 1968, Pub. L. 90-614, provided: "This Act [this chapter] may be cited as the 'District of Columbia Administrative Procedure Act' act".

EFFECTIVE DATE

Section 12, act Oct. 21, 1968, Pub. L. 90-614, provided: "This Act [this chapter] shall become effective one year after the date of its enactment. [Oct. 21, 1968.]"

§ 1-1502. Definition.

As used in this chapter—

(1)(a) the term "Commissioner" means the Commissioner of the District of Columbia, or his designated agent;

(b) the term "Council" means the District of Columbia Council;

(2) the term "District" means the District of Columbia;

(3) the term "agency" includes both subordinate agency and independent agency;

(4) the term “subordinate agency” means any officer, employee, office, department, division, board, commission, or other agency of the government of the District, other than an independent agency or the Commissioner or the Council, required by law or by the Commissioner or the Council to administer any law or any rule adopted under the authority of a law;

(5) the term “independent agency” means any agency of the government of the District with respect to which the Commissioner and the Council are not authorized by law, other than this chapter, to establish administrative procedures, but does not include the several courts of the District and the District of Columbia Tax Court;

(6) the term “rule” means the whole or any part of any Commissioner’s, Council’s, or agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of the Commissioner, Council, or of any agency;

(7) the term “rulemaking” means Commissioner’s, Council’s, or agency process for the formulation, amendment, or repeal of a rule;

(8) the term “contested case” means a proceeding before the Commissioner, the Council, or any agency in which the legal rights, duties, or privileges of specific parties are required by any law (other than this Chapter), or by constitutional right, to be determined after a hearing before the Commissioner or the Council or before an agency, but shall not include (A) any matter subject to a subsequent trial of the law and the facts de novo in any court; (B) the selection or tenure of an officer or employee of the District; (C) proceedings in which decisions rest solely on inspections, tests, or elections; and (D) cases in which the Commissioner, Council, or an agency act as an agent for a court of the District;

(9) the term “person” includes individuals, partnerships, corporations, associations, and public or private organizations of any character other than the Commissioner, the Council, or an agency;

(10) the term “party” includes the Commissioner, the Council, and any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any proceeding before the Commissioner, the Council, or an agency, but nothing herein shall be construed to prevent the Commissioner, the Council, or an agency from admitting the Commissioner, the Council, or any person or agency as a party for limited purposes;

(11) the term “order” means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of the Commissioner or Council or of any agency in any matter other than rulemaking, but including licensing;

(12) the term “license” includes the whole or part of any permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission granted by the Commissioner, the Council, or any agency;

(13) the term “licensing” includes process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license by the Commissioner or the Council or an agency;

(14) the term “relief” includes the whole or part of any Commissioner’s or Council’s or agency (A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; (B) recognition of any claim, right, immunity, privilege, exemption, or exception; and (C) taking of any other action upon the application or petition of, and beneficial to, any person;

(15) the term “proceeding” means any process of the Commissioner or Council or an agency as defined in paragraphs (6), (11), and (12) of this section; and

(16) the term “sanction” includes the whole or part of any Commissioner’s or Council’s or agency (A) prohibition, requirement, limitation, or other condition affecting the freedom of any person; (B) withholding of relief; (C) imposition of any form of penalty or fine; (D) destruction, taking, seizure, or withholding of property; (E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; (F) requirement, revocation, or suspension of a license; and (G) taking of other compulsory or restrictive action.

(Oct. 21, 1968, Pub. L. 90-614, § 3, 82 Stat. 1204.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1503. Establishment of general procedures.

(a) The Commissioner and the Council shall, for themselves and for each subordinate agency, establish or require each subordinate agency to establish procedures in accordance with this chapter.

(b) Each independent agency shall establish procedures in accordance with this chapter.

(c) The procedures required to be established by subsections (a) and (b) of this section shall include requirements of practice before the Commissioner and the Council and each agency. (Oct 21, 1968, Pub. L. 90-614, § 4, 82 Stat. 1205.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1504. Official publication.

(a) The Commissioner shall publish at regular intervals not less frequently than once every two weeks a bulletin to be known as the “District of Columbia Register,” in which shall be set forth the full text of all rules filed in the office of the Commissioner during the period covered by each issue of such bulletin, except that the Commissioner may in his discretion omit from the District of Columbia Register rules the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if, in lieu of such publication, there is included in the Register a notice stating the general subject matter of any rule so omitted and stating the manner in which a copy of such rule may be obtained.

(b) All courts within the District shall take judicial notice of rules published or of which notice is

given in the District of Columbia Register pursuant to this section.

(c) Publication in the District of Columbia Register of rules adopted, amended, or repealed by the Commissioner or Council or by any agency shall not be considered as a substitute for publication in one or more newspapers of general circulation when such publication is required by statute.

(d) The Commissioner is authorized to publish in the District of Columbia Register, in addition to rules published under authority contained in subsection (a) of this section, (1) cumulative indexes to regulations which have been adopted, amended, or repealed; (2) information on changes in the organization of the District government; (3) notices of public hearings; (4) codifications of rules; and (5) such other matters as the Commissioner may from time to time determine to be of general public interest. (Oct. 21, 1968, Pub. L. 90-614, § 5, 82 Stat. 1206.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1505. Public notice and participation in rulemaking.

(a) The Commissioner and Council and each independent agency shall, prior to the adoption of any rule or the amendment or repeal thereof, publish in the District of Columbia Register (unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law) notice of the intended action so as to afford interested persons opportunity to submit data and views either orally or in writing, as may be specified in such notice. The publication or service required by this subsection of any notice shall be made not less than thirty days prior to the effective date of the proposed adoption, amendment, or repeal, as the case may be, except as otherwise provided by the Commissioner or Council or the agency upon good cause found and published with the notice.

(b) Any interested person may petition the Commissioner or Council or an independent agency, requesting the promulgation, amendment, or repeal of any rule. The Commissioner and Council and each independent agency shall prescribe by rule the form for such petitions, and the procedure for their submission, consideration, and disposition. Nothing in this chapter shall make it mandatory that the Commissioner or Council or any agency promulgate, amend, or repeal any rule pursuant to a petition therefor submitted in accordance with this section.

(c) Notwithstanding any other provision of this section, if, in an emergency, as determined by the Commissioner or Council or an independent agency, the adoption of a rule is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals, the Commissioner or Council or such independent agency may adopt such rules as may be necessary in the circumstances, and such rule may become effective immediately. Any such emergency rule shall forthwith be published and filed in the manner prescribed in section 1-1506. No such rule shall remain in effect longer than one hundred and twenty days after the date of its adoption. (Oct. 21, 1968, Pub. L. 90-614, § 6, 82 Stat. 1206.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1506. Filing and publishing of rules.

(a) Each agency, within thirty days after the effective date of this chapter, shall file with the Commissioner a certified copy of all of its rules in force on such effective date.

(b) The Commissioner shall keep a permanent register open to public inspection of all rules.

(c) Except in the case of emergency rules, each rule adopted after the effective date of this chapter by the Commissioner or Council or by any agency, shall be filed in the office of the Commissioner. No such rule shall become effective until after its publication in the District of Columbia Register, nor shall such rule become effective if it is required by law, other than this chapter, to be otherwise published, until such rule is also published as required in such law. (Oct. 21, 1968, Pub. L. 90-614, § 7, 82 Stat. 1207.)

EFFECTIVE DATE

See note to section 1-1501.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-1505.

§ 1-1507. Compilation of rules.

(a) As soon as practicable after the effective date of this chapter, the Commissioner shall have compiled, indexed, and published in the District of Columbia Register all rules adopted by the Commissioner and Council and each agency and in effect at the time of such compilation. Such compilations shall be promptly supplemented or revised as may be necessary to reflect new rules and changes in rules.

(b) Compilations shall be made available to the public at a price fixed by the Commissioner.

(c) The Commissioner must publish the first compilation required by subsection (a) of this section within one year after the effective date of this chapter and no rule adopted by the Commissioner or by the Council or by an agency before the date of such first publication which has not been filed and published in accordance with this chapter and which is not set forth in such compilation shall be in effect after one year after the effective date of this chapter. (Oct. 21, 1968, Pub. L. 90-614, § 8, 82 Stat. 1207.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1508. Declaratory orders.

On petition of any interested person, the Commissioner or Council or an agency, within their discretion, may issue a declaratory order with respect to the applicability of any rule or statute enforceable by them or by it, to terminate a controversy (other than a contested case) or to remove uncertainty. A declaratory order, as provided in this section, shall be binding between the Commissioner or Council or the agency, as the case may be, and the petitioner on the state of facts alleged and established, unless such order is altered or set aside by a court. A declaratory order is subject to review in the manner provided in this chapter for the review of orders and decisions in contested cases, except that the refusal of the Commissioner or Council or of an agency to issue a

declaratory order shall not be subject to review. The Commissioner and the Council and each agency shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. (Oct. 21, 1968, Pub. L. 90-614, § 9, 82 Stat. 1207.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1509. Contested cases.

(a) In any contested case, all parties thereto shall be given reasonable notice of the afforded hearing by the Commissioner or Council or the agency, as the case may be. The notice shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the Commissioner or Council or the agency determine that the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. Unless otherwise required by law, other than this chapter, any contested case may be disposed of by stipulation, agreed settlement, consent order, or default.

(b) In contested cases, except as may otherwise be provided by law, other than this chapter, the proponent of a rule or order shall have the burden of proof. Any oral and any documentary evidence may be received, but the Commissioner and Council and every agency shall exclude irrelevant, immaterial, and unduly repetitious evidence. Every party shall have the right to present in person or by counsel his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Where any decision of the Commissioner or Council or any agency in a contested case rests on official notice of a material fact not appearing in the evidence in the record, any party to such case shall on timely request be afforded an opportunity to show the contrary.

(c) The Commissioner or Council or the agency shall maintain an official record in each contested case, to include testimony and exhibits, but it shall not be necessary to make any transcription unless a copy of such record is timely requested by any party to such case, or transcription is required by law, other than this chapter. The testimony and exhibits, together with all papers and requests filed in the proceeding, and all material facts not appearing in the evidence but with respect to which official notice is taken, shall constitute the exclusive record for order or decision. No sanction shall be imposed or rule or order or decision be issued except upon consideration of such exclusive record, or such lesser portions thereof as may be agreed upon by all the parties to such case. The cost incidental to the preparation of a copy or copies of a record or portion thereof shall be borne equally by all parties requesting the copy or copies.

(d) Whenever in a contested case a majority of those who are to render the final order or decision did not personally hear the evidence, no order or decision adverse to a party to the case (other than the Commissioner or an agency) shall be made until a pro-

posed order or decision, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of those who are to render the order or decision, who, in such case, shall personally consider such portions of the exclusive record, as provided in subsection (c) of this section, as may be designated by any party.

(e) Every decision and order adverse to a party to the case, rendered by the Commissioner or Council or an agency in a contested case, shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Findings of fact and conclusions of law shall be supported by and in accordance with the reliable, probative, and substantial evidence. A copy of the decision and order and accompanying findings and conclusions shall be given by the Commissioner or Council or the agency, as the case may be, to each party or to his attorney of record. (Oct. 21, 1968, Pub. L. 90-614, § 10, 82 Stat. 1208.)

EFFECTIVE DATE

See note to section 1-1501.

§ 1-1510. Judicial review.

Any person suffering a legal wrong, or adversely affected or aggrieved, by an order or decision of the Commissioner or Council or an agency in a contested case, is entitled to a judicial review thereof in accordance with this chapter upon filing in the District of Columbia Court of Appeals a written petition for review, except that orders and decisions of the Board of Zoning Adjustment, Commission of Mental Health, Public Service Commission, Redevelopment Land Agency, and the Zoning Commission shall be subject to judicial review in those courts which review the orders and decisions of those agencies on the day before the date of enactment of this chapter and such judicial review shall be in accordance with the law in effect on the date immediately preceding the effective date of this chapter establishing requirements and standards for review of orders and decisions of those agencies or, if no such requirements or standards are in effect on such date, then such review shall be in accordance with this chapter. If the jurisdiction of the Commissioner or Council or an agency is challenged at any time in any proceeding and the Commissioner or Council or the agency, as the case may be, takes jurisdiction, the person challenging jurisdiction shall be entitled to an immediate judicial review of that action, unless the court shall otherwise hold. The reviewing court may by rule prescribe the forms and contents of the petition and, subject to this chapter, regulate generally all matters relating to proceedings on such appeals. A petition for review shall be filed in such court within such time as such court may by rule prescribe and a copy of such petition shall forthwith be served by mail by the clerk of the court upon the Commissioner or Council or upon the agency, as the case may be. Within such time as may be fixed by rule of the court the Commissioner or Council or such agency shall certify and file in the court the exclusive record for decision and any supplementary proceedings, and

the clerk of the court shall immediately notify the petitioner of the filing thereof. Upon the filing of a petition for review, the court shall have jurisdiction of the proceeding, and shall have power to affirm, modify, or set aside the order or decision complained of, in whole or in part, and, if need be, to remand the case for further proceedings, as justice may require. Filing of a petition for review shall not in itself stay enforcement of the order or decision of the Commissioner or Council or the agency, as the case may be. The Commissioner or Council or the agency may grant, or the reviewing court may order, a stay upon appropriate terms. The court shall hear and determine all appeals upon the exclusive record for decision before the Commissioner or Council or the agency. The review of all administrative orders and decisions by the court shall be limited to such issues of law or fact as are subject to review on appeal under applicable statutory law, other than this chapter. In all other cases the review by the court of administrative orders and decisions shall be in accordance with the rules of law which define the scope and limitations of review of administrative proceedings. Such rules shall include, but not be limited to, the power of the court—

(1) so far as necessary to decision and where presented, to decide all relevant questions of law, to interpret constitutional and statutory provisions, and to determine the meaning or applicability of the terms of any action;

(2) to compel agency action unlawfully withheld or unreasonably delayed; and

(3) to hold unlawful and set aside any action or findings and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or

immunity; (C) in excess of statutory jurisdiction, authority, or limitations or short of statutory jurisdiction, authority, or limitations or short of statutory rights; (D) without observance of procedure required by law, including any applicable procedure provided by this chapter; or (E) unsupported by substantial evidence in the record of the proceedings before the court.

In reviewing administrative orders and decisions, the court shall review such portions of the exclusive record as may be designated by any party. The court may invoke the rule of prejudicial error. Any party aggrieved by any judgment of the District of Columbia Court of Appeals under this chapter may seek a review thereof by the United States Court of Appeals for the District of Columbia Circuit in accordance with sections 11-321, 17-101, 17-102, 17-103, and 17-104 of the District of Columbia Code. (Oct. 21, 1968, Pub. L. 90-614, § 11, 82 Stat. 1209.)

EFFECTIVE DATE

See note to section 1-1501.

CROSS REFERENCE

Other provisions for appeals from certain administrative orders and decisions, see sections 11-321 and 11-742.

NOTES TO DECISIONS

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the administrative action of suspending motor vehicle operator's permit of 17-year-old driver. *Id.*

TITLE 1.—ADMINISTRATION, APPENDIX

REORGANIZATION PLANS AND ORDERS FOR DISTRICT OF COLUMBIA

REORGANIZATION PLAN NO. 5 OF 1952

(17 F.R. 5849, F.R. Doc. 52-7291; Filed, June 30, 1952, 11:51 a.m.)

Section 16 of the act of July 31, 1953, ch. 299, 67 Stat. 296, provided: "The authority of the Commissioners to establish agencies and offices in the government of the District of Columbia pursuant to section 4 of Reorganization Plan No. 5 of 1952, and to effect transfers of unexpended balances of appropriations, allocations, and other funds pursuant to section 5 of said Plan, shall not extend beyond June 30, 1954."

REORGANIZATION PLAN NO. 3 OF 1967

(32 F.R. 11669, F.R. Doc. 67-9507; Filed, Aug. 11, 1967, 8:45 a.m.)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1967, pursuant to the provisions of chapter 9 of title 5 of the United States Code. Except for Part IV and sections 501, 502, and 503 the plan became effective August 11, 1967. Part IV and sections 501, 502, and 503 became effective November 3, 1967, when the nine members of the District of Columbia Council, took office.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

PART I. GENERAL PROVISIONS

SECTION 101. *Definitions.* (a) As used in this reorganization plan, the term "the Corporation" means the body-corporate for municipal purposes created a government by the name of the "District of Columbia."

(b) References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan (including modifications made by Reorganization Plan No. 5 of 1952 (66 Stat. 824)).

SEC. 102. *Reorganization.* The Corporation is hereby reorganized as provided in the following Parts of this reorganization plan.

PART II. DISTRICT OF COLUMBIA COUNCIL

SEC. 201. *Establishment of the Council.* (a) There is hereby established in the Corporation a Council which shall be known as the "District of Columbia Council" (hereinafter referred to as the Council).

(b) The Council shall be composed of a Chairman of the Council, a Vice Chairman of the Council, and seven other members, all of whom shall be appointed by the President of the United States, by and with the advice and consent of the Senate. At the time of his appointment each member of the Council shall be a citizen of the United States, shall have been an actual resident of the District of Columbia for three years next preceding his appointment, and shall during that period have claimed residence nowhere else. The Council shall be nonpartisan and no more than six of its members shall be adherents of any one political party. Appointments to the Council shall be made with a view toward achieving a Council membership which will be broadly representative of the District of Columbia community.

(c) One or more of the nine Council members hereinabove provided for may be appointed from among (1) retired civilian employees of the Government, (2) retired personnel of the armed services of the United States, and (3) retired personnel of the Corporation. Any person so appointed shall be eligible to receive the compensation provided for in section 204 hereof and appointment here-

under shall not affect his right to receive annuity, pension, or retired pay to which he is otherwise entitled.

(d) Three of the appointments first made under this section shall be for terms expiring February 1, 1968, three shall be for terms expiring February 1, 1969, and three shall be for terms expiring February 1, 1970; and thereafter appointments shall be made for terms of three years. Any appointment made to fill a vacancy shall be made only for the unexpired balance of the term. Any member of the Council may continue to serve as such member after the expiration of his term of office until his successor is appointed and qualifies. Any member of the Council may be removed by the President of the United States for neglect of duty or malfeasance in office or when the member has been found guilty of a felony or conduct involving moral turpitude.

(e) Each member of the Council before entering upon the discharge of his duties as such member shall take an oath or affirmation to support the Constitution of the United States and to faithfully discharge the duties imposed upon him as such member.

(f) Five members of the Council shall constitute a quorum for the transaction of business of the Council, except that four members shall constitute a quorum whenever two or more Council memberships are vacant.

SEC. 202. *Acting Chairman.* During the absence or disability of the Chairman of the Council, or whenever there be no Chairman, the Vice Chairman shall act as Chairman of the Council.

SEC. 203. *Secretary of the Council.* (a) There is hereby established the office of the Secretary of the Council. The Secretary shall be appointed by the Council from time to time.

(b) The Secretary shall perform such duties, and shall provide such services for the Council and its members, as the Council may prescribe. Personnel appointed to assist the Secretary in carrying out his responsibilities under this section shall be appointed by the Secretary subject to the approval of the Council.

SEC. 204. *Compensation.* The Chairman of the Council shall receive compensation at the rate of \$10,000 per annum, the Vice Chairman shall receive compensation at the rate of \$9,000 per annum, and each other member of the Council shall receive compensation at the rate of \$7,500 per annum. The Secretary of the Council shall receive compensation determined in accordance with the classification laws as amended from time to time.

SEC. 205. *Performance of functions of the Council.* (a) The Council is hereby authorized to make from time to time such provisions as it deems appropriate to authorize the performance of any of its functions by the Commissioner of the District of Columbia (hereinafter provided for).

(b) The Council is hereby authorized to make from time to time, subject to the concurrence of the Commissioner of the District of Columbia, such provisions as it deems appropriate to authorize the performance of any of its functions by any officer, agency, or employee of the Corporation except the courts thereof.

(c) All functions provided for in regulations of the Council (including existing regulations continued in force without action by the Council) which are to be carried out by any officer, employee, or agency, who or which is in other respects under the jurisdiction of the Commissioner of the District of Columbia shall be carried out by such officer, employee, or agency under the direction and control of the Commissioner.

PART III. COMMISSIONER OF THE DISTRICT OF COLUMBIA

SEC. 301. *Establishment of office of Commissioner.* (a) There is hereby established in the Corporation an office

with the title of "Commissioner of the District of Columbia." The officer who holds that office is hereinafter referred to as the Commissioner.

(b) The Commissioner shall be appointed by the President of the United States, by and with the advice and consent of the Senate. The Commissioner shall at the time of his appointment be a citizen of the United States. Before entering upon the discharge of his duties the Commissioner shall take an oath or affirmation to support the Constitution of the United States and faithfully discharge the duties imposed upon him as Commissioner. The Commissioner shall receive compensation at the rate now or hereafter prescribed by law for offices and positions of Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). Whenever both a Commissioner and an Assistant to the Commissioner appointed under section 302 hereof are in office at least one of them shall have been an actual resident of the District of Columbia for three years next preceding his appointment and have during that period claimed residence nowhere else. Both the Commissioner and the Assistant to the Commissioner shall reside in the District of Columbia during the time each holds office.

(c) The first appointment of a Commissioner hereunder shall be for a term expiring on February 1, 1969, and thereafter each appointment shall be made for a term of four years. Any appointment made to fill a vacancy in the office shall be made only for the unexpired balance of the term. A Commissioner may continue to serve as such after the expiration of his term of office until his successor is appointed and qualifies. The Commissioner is subject to removal by the President of the United States.

(d) The President may from time to time (1) designate officials of the Corporation (including the Chairman, the Vice Chairman, and the other members of the Council provided for in Part II of this reorganization plan if the President so elects) to act as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the office of Commissioner, and (2) prescribe the order of succession in which the officials so designated shall so act.

SEC. 302. Assistant to the Commissioner. There is hereby established in the Corporation a new office which shall have the title "Assistant to the Commissioner of the District of Columbia." Such assistant (1) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, (2) shall receive compensation at the rate now or hereafter prescribed by law for offices and positions of Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316), and (3) shall assist the Commissioner as the Commissioner may direct in connection with the carrying out of the functions of the Commissioner.

SEC. 303. Establishment of other new offices. There are hereby established in the Corporation so many agencies and offices, with such names or titles, as the Commissioner shall from time to time determine. The said offices shall be filled by appointment by, or under the authority of, the Commissioner. Each officer so appointed shall perform the functions delegated or otherwise assigned to him in pursuance of this reorganization plan and shall receive compensation to be fixed in accordance with the classification laws as amended from time to time.

SEC. 304. Transfer of personnel, property, records, and funds. With respect to personnel, property, records, and unexpended balances of appropriations, allocations and other funds, available or to be made available, relating to functions transferred by the provisions of this reorganization plan, the Commissioner may from time to time effect such transfers between the agencies of the Corporation (including transfers between the Commissioner and any other agency of the Corporation) as he may deem necessary in order to carry out the provisions of this reorganization plan.

SEC. 305. Performance of functions of Commissioner. The Commissioner is hereby authorized to make from time to time such provisions as he deems appropriate to authorize performance of his functions by any other officer, or by any employee or agency, of the Corporation except the courts thereof.

PART IV. TRANSFERS OF FUNCTIONS

SEC. 401. Transfer of functions to Commissioner. Except as otherwise provided in this reorganization plan, all functions of the Board of Commissioners of the District of Columbia, including all functions of the President of that Board and all functions of each other member of that Board and including also the executive power vested therein (D.C. Code, sec. 1-218), are hereby transferred to the Commissioner of the District of Columbia.

SEC. 402. Transfer of functions to Council. The following regulatory and other functions now vested in the Board of Commissioners of the District of Columbia are hereby transferred to the Council (subject to the provisions of section 406 of this reorganization plan):

1. General provisions

(1) Making and modifying police regulations under D.C. Code, sec. 1-224 (including the prescribing of penalties under paragraph "Eleventh" thereof).

(2) Prescribing penalties under D.C. Code, sec. 1-224a.

(3) Making and modifying regulations to regulate the keeping and leashing of dogs, and to regulate or prohibit the running at large of dogs, including penalties for violations of such regulations, under D.C. Code, sec. 1-224b.

(4) Making regulations under D.C. Code, secs. 1-226 and 1-227.

(5) Making building regulations under D.C. Code, sec. 1-228.

(6) Making and publishing such orders as may be necessary to regulate the construction, repair and operation of elevators and prescribing such means of security as may be found necessary to protect life and limb under D.C. Code, sec. 1-229.

(7) Issuing proclamations related to the control of rabies under D.C. Code, sec. 1-230.

(8) Making regulations relating to outdoor signs and other forms of exterior advertising under D.C. Code, sec. 1-231.

(9) With respect to the functions transferred to the Council by the provisions of this reorganization plan, (i) making investigations or examinations of municipal matters, and (ii) administering oaths to witnesses, under D.C. Code, sec. 1-237.

(10) Reporting annually to the Congress concerning the functions transferred to the Council by the provisions of this reorganization plan under D.C. Code, sec. 1-238.

(11) Making regulations to provide for the waiver of payment of fees (by persons in the military service of the United States) under D.C. Code, sec. 1-244(a).

(12) Making and adopting regulations relating to the furnishing and keeping in force a bond by persons, firms, or corporations engaged in the business of plumbing or gas fitting, or of installing, maintaining, or repairing heating, ventilating, air-conditioning, or mechanical refrigerating apparatus, equipment, appliances, systems, or parts thereof, or of installing, maintaining, or repairing apparatus, equipment, fixtures, appliances, or wiring, using or conducting electric current under D.C. Code, sec. 1-244(b).

(13) Prescribing regulations for the examination of the qualifications and fitness of applicants for licenses to engage in the business referred to in the immediately preceding paragraph hereof under D.C. Code, sec. 1-244(b).

(14) Naming highways and naming and renaming circles, bridges, buildings, or other public places or properties under D.C. Code, sec. 1-244(f).

(15) Prescribing penalties under D.C. Code, sec. 1-244(h).

(16) Fixing and changing periods for which licenses, certificates, or registrations may be issued under D.C. Code, sec. 1-257.

(17) Prescribing regulations relating to holidays for District of Columbia employees under D.C. Code, sec. 1-260.

(18) The reception and entertainment of officials of foreign, State, local, or Federal governments and other dignitaries and eminent persons visiting in or returning to the District of Columbia under D.C. Code, sec. 1-262.

(19) Prescribing penalties under D.C. Code, sec. 1-264.

(20) Prescribing rules and regulations relating to notaries public under D.C. Code, sec. 1-501.

(21) Making and publishing general orders regulating the platting and subdividing of lands and grounds under D.C. Code, sec. 1-613.

(22) Prescribing a schedule of fees for surveyor's services under D.C. Code, sec. 1-629.

(23) Exempting certain boilers from provision prohibiting using steam boilers without first obtaining certificate of inspection under D.C. Code, sec. 1-705.

(24) Making regulations to carry out the provisions of the Act of June 25, 1936 under section 14 of that Act (D.C. Code, sec. 1-715).

(25) Making rules and regulations respecting the production, use, and control of electricity, and prescribing fees, under D.C. Code, sec. 1-719.

(26) Making and modifying regulations governing plumbing, house drainage, and sewers, and making and modifying regulations governing the examination, registration, and licensing of plumbers and the practice of the business of plumbing and gas fitting, under D.C. Code, sec. 1-725.

(27) Establishing fees for permits to connect buildings, premises, or establishments with sewer, water, or gas mains, or other underground structures, and establishing fees for permits granted to make excavations, under D.C. Code, sec. 1-726.

(28) Consulting concerning the formation of one or more citizen advisory councils under D.C. Code, sec. 1-1004 (e) (40 U.S.C. 71c(e)).

(29) Defining and redefining the central area of the District of Columbia under D.C. Code, sec. 1-1005(c) (40 U.S.C. 71d(c)).

(30) Approving a major thoroughfare plan or parts thereof or revisions thereof, and proposing revision of the major thoroughfare plan or parts thereof, under D.C. Code, sec. 1-1006(a) (40 U.S.C. 71e(a)).

(31) Consulting with National Capital Planning Commission prior to final adoption of the thoroughfare plan under D.C. Code, sec. 1-1006(b) (40 U.S.C. 71e(b)).

(32) Submitting a copy of the District's advance program of capital improvements to the National Capital Planning Commission under D.C. Code, sec. 1-1007 (40 U.S.C. 71f).

(33) With respect to each inaugural period: (i) making regulations necessary to secure the preservation of public order and protection of life, health, and property, (ii) making regulations respecting the standing, movement, and operation of vehicles, (iii) fixing conditions with respect to licenses to peddlers and vendors, and (iv) fixing fees for the privilege of selling goods, wares, and merchandise, under D.C. Code, sec. 1-1202 (36 U.S.C. 722).

2. Regulation of professions, occupations, etc.

(34) Making and altering rules for the conduct of business of agency administering, and for the execution and enforcement of, the Healing Arts Practice Act of 1928, under D.C. Code, sec. 2-103, and adopting and altering a common seal thereunder.

(35) Establishing minimum standards of preprofessional and professional education in the healing art and establishing minimum standards for hospitals for interne training under D.C. Code, sec. 2-103a(a).

(36) Adopting and promulgating rules and regulations prescribing (i) the terms and conditions under which a tissue bank license may be issued and renewed, (ii) the fees to be paid by the issuance and renewal of such licenses, (iii) the duration of such licenses, (iv) the grounds for the suspension and revocation of such licenses, (v) the operation of tissue banks, (vi) the conditions under which tissue may be processed, preserved, stored, and transported, and (vii) the making, keeping, and disposition of records by tissue banks and by other persons under D.C. Code, sec. 2-253(b).

(37) Making and adopting rules and regulations to effect the purposes of the Act of July 2, 1940, relating to the licensing of dentists and the practice of dentistry (including the making of rules regulating professional announcements and the number of offices of a licensed dentist and including also the prescribing of rules and regulations to permit the use in hospitals of dental internes) under D.C. Code, sec. 2-302.

(38) Adopting and amending by-laws carrying into effect the Act of February 9, 1907, relating to the registra-

tion of graduate nurses, under D.C. Code, secs. 2-403 and 2-406.

(39) Fixing, under D.C. Code, sec. 2-408, the fees referred to in clause (c) thereof.

(40) Adopting and prescribing rules and regulations to carry into effect the Act of September 6, 1960, and prescribing minimum curricula and standards for schools and programs, under D.C. Code, sec. 2-427(a).

(41) Obtaining or requiring the furnishing of information under oath or affirmation or otherwise necessary to assist in prescribing any regulation under the Act of September 6, 1960, under D.C. Code, sec. 2-427(b).

(42) With respect to the functions transferred by the paragraph immediately preceding this paragraph, administering oaths and affirmations, requiring by subpoena or otherwise the attendance and testimony of witnesses and the production of documents, and making application to the Court for an order requiring obedience thereto, under D.C. Code, sec. 2-427(b).

(43) Determining the qualifications, prescribing the terms of office, and fixing the compensation of members of the physical therapists examining board under D.C. Code, sec. 2-455.

(44) Adopting and prescribing rules and regulations to carry into effect the Act of September 22, 1961, under D.C. Code, sec. 2-456(a).

(45) Obtaining or requiring the furnishing of information under oath or affirmation or otherwise necessary to assist in prescribing any regulation under the Act of September 22, 1961 under D.C. Code, sec. 2-456(b).

(46) With respect to the functions transferred by the paragraph immediately preceding this paragraph, administering oaths and affirmations, requiring by subpoena or otherwise the attendance and testimony of witnesses and the production of documents, and making application to the Court for an order requiring obedience thereto, under D.C. Code, sec. 2-456(b).

(47) Changing the periods for which registrations as physical therapists or renewals thereof may be issued under D.C. Code, sec. 2-461(a).

(48) Altering, amending, or otherwise changing educational standards (relating to optometrists) under D.C. Code, sec. 2-512.

(49) Making and altering rules for the conduct of business of agency administering, and for the execution and enforcement of, the Act of May 7, 1906, under D.C. Code, sec. 2-608.

(50) Adopting rules and regulations respecting the eligibility of candidates for admission to the practice of podiatry and the scope of examinations, under D.C. Code, sec. 2-702, and adopting a seal thereunder.

(51) Making, altering, and amending rules and regulations to carry into effect the provisions of the Act of February 1, 1907, relating to veterinarians, and requiring the giving of bond and prescribing the form and penalty thereof, under D.C. Code, sec. 2-802.

(52) Determining, authorizing, and directing the subjects to be included in examinations for veterinarians under D.C. Code, sec. 2-803.

(53) Making reciprocal arrangements with authorities of the several states and territories of the United States concerning the licensing of veterinarians under D.C. Code, sec. 2-804.

(54) Making rules for the examination and registration of applicants for (architects') certificates under D.C. Code, sec. 2-1001.

(55) Fixing fees, relating to architects and applicants, under D.C. Code, sec. 2-1023.

(56) With respect to the functions transferred by paragraphs (54) and (55), above, requiring the attendance of persons and the production of books and papers, requiring persons to testify, issuing subpoenas, and referring matters to a judge, under D.C. Code, sec. 2-1029.

(57) Adopting rules and sanitary regulations to carry out the provisions of the Act of June 7, 1938 (relating to barbers) under D.C. Code, sec. 2-1103.

(58) Making and issuing regulations (relating to the posting of prices in barber shops and violations of such regulations) under D.C. Code, sec. 2-1114a.

(59) Making and amending rules and regulations to carry out the purposes of the Act of December 20, 1944 (relating to boxing contests and exhibitions), under D.C. Code, sec. 2-1212.

(60) Making rules and regulations to carry out the provisions of the Act of June 7, 1938 (relating to cosmetologists) under D.C. Code, sec. 2-1303.

(61) Fixing fees for licenses (relating to plumbers) under D.C. Code, sec. 2-1405.

(62) Providing rules and regulations (relating to examinations for steam and other operating engineers), and prescribing tests to which engines and steam boilers shall be subjected, under D.C. Code, sec. 2-1502.

(63) All authority and responsibilities of the Board of Commissioners of the District of Columbia under D.C. Code, secs. 2-1724, 2-1727, and 2-1728 (relating to the District of Columbia Stadium).

(64) Regulating the certification of engineers-in-training, and prescribing examinations for the purpose of testing the applicant's knowledge, under D.C. Code, sec. 2-1808(c).

(65) Prescribing a certificate for issuance to applicants who meet requirements for certification as engineers-in-training under D.C. Code, sec. 2-1808(j).

(66) Adopting an official seal under D.C. Code, sec. 2-1808(l).

(67) Adopting, amending, rescinding, and promulgating administrative rules and regulations to carry into effect the Act of September 19, 1950, under D.C. Code, sec. 2-1808(n).

(68) With respect to other functions transferred to the Council by the provisions of this reorganization plan, requiring the attendance of witnesses and the production of books and papers, requiring witnesses to testify, issuing subpoenas, and referring matters to a judge under D.C. Code, sec. 2-1808(o).

(69) Fixing the form and amount of bond required to be furnished under D.C. Code, sec. 2-1813.

(70) Prescribing additional information to be contained in applications for pawnbrokers' licenses under D.C. Code, sec. 2-2003(b) (4).

(71) Making rules and regulations for the enforcement of the Act of August 6, 1956, under D.C. Code, sec. 2-2007(a).

(72) Determining or fixing a maximum rate of interest for pawnbroker loans and redetermining and refixing any such maximum rate under D.C. Code, sec. 2-2009(a).

(73) Making rules and regulations to carry out the Act of August 6, 1956 (relating to pawnbrokers) under D.C. Code, sec. 2-2017.

(74) Prescribing by regulation the form of and the information to be contained in solicitor information cards, and prescribing the manner of reproduction and authentication of such cards, under D.C. Code, sec. 2-2102(a) (7).

(75) Prescribing by regulation the terms and conditions for exempting solicitations from certain provisions of the Act of July 10, 1957, under D.C. Code, sec. 2-2103(d).

(76) Prescribing the form or forms of application for certificate of registration, and requiring by regulation the information to be contained in each such application, under D.C. Code, sec. 2-2104(a).

(77) Promulgating regulations to carry out the Act of July 10, 1957 (relating to charitable solicitations) under D.C. Code, sec. 2-2110.

(78) Requiring the furnishing of bond as a condition to the issuance of license to engage in the home improvement business under D.C. Code, sec. 2-2301.

(79) Establishing classes and subclasses of persons licensed to engage in the home improvement business, and specifying the amount and conditions of the bond or other security to be deposited by each member of any such class or subclass, under D.C. Code, sec. 2-2302(a).

(80) By regulation, requiring applicants for licenses or licensees (i) to furnish and keep in force a bond or bonds or other security, and (ii) to procure and keep in force public liability insurance or property damage insurance, or both, under D.C. Code, sec. 2-2302(a) (1) and (2).

3. Public welfare

(81) Making rules and regulations relating to the admission of persons to institutions under D.C. Code, sec. 3-108.

(82) Establishing rules for receiving and temporarily caring for children under D.C. Code, sec. 3-116.

(83) Establishing rules and regulations to carry out the provisions of the Act of October 15, 1962 (relating to public assistance) under D.C. Code, sec. 3-202(b) (2).

(84) Approving regulations in accordance with which shall be determined the amount of public assistance which any person shall receive under D.C. Code, sec. 3-204(a).

(85) Prescribing the manner and form in which application for public assistance shall be made, under D.C. Code, sec. 3-205.

(86) Prescribing regulations governing the custody, use, and preservation of records, papers, files and communications relating to public assistance under D.C. Code, sec. 3-211(a).

(87) Approving rules and regulations relating to funeral expenses under D.C. Code, sec. 3-213.

(88) Prescribing rules and regulations in accordance with which hearings shall be conducted under D.C. Code, sec. 3-214.

4. Police and fire

(89) Subdividing the Metropolitan Police District into police districts and precincts under D.C. Code, sec. 4-102.

(90) Determining and fixing limits of age for appointments to the police department under D.C. Code, sec. 4-107.

(91) Prescribing general regulations regarding special policemen under D.C. Code, sec. 4-115.

(92) Making rules and regulations under D.C. Code, sec. 4-117.

(93) Making and modifying rules and regulations for the proper government, conduct, discipline, and good name of the Metropolitan Police force, and fixing penalties, under D.C. Code, sec. 4-121.

(94) Making and amending rules of procedure before trial boards under D.C. Code, sec. 4-122.

(95) Changing, altering, amending, or abolishing rules and regulations of the Metropolitan Police Force under the last proviso of D.C. Code, sec. 4-122.

(96) Providing rules for uniform clothing of the police force under D.C. Code, sec. 4-130.

(97) Prescribing the area constituting the "Washington, District of Columbia, metropolitan district" under D.C. Code, sec. 4-132a(b).

(98) Causing the Metropolitan Police force to keep records under D.C. Code, sec. 4-134(5).

(99) Determining traffic violations and other petty offenses with respect to which records are not required to be kept under D.C. Code, sec. 4-134a(a).

(100) Making rules and regulations regarding the written return of arrests under D.C. Code, sec. 4-142.

(101) Making rules and regulations in reference to the detention of witnesses under D.C. Code, sec. 4-144.

(102) Providing by regulation for disposition of property under the proviso of D.C. Code, sec. 4-156(e).

(103) Determining by regulation the disposition of property under D.C. Code, sec. 4-159(c).

(104) Determining, by regulation, disposition of property under D.C. Code, sec. 4-160(a).

(105) By regulation requiring that bonds be furnished and kept in force by persons licensed as private detectives under D.C. Code, sec. 4-171a.

(106) Fixing amounts of bonds obtained to secure against loss resulting from any act of dishonesty or other act by any officer of the Metropolitan Police Force under D.C. Code, sec. 4-186.

(107) Making, altering, or amending rules and regulations relating to officers and members of the fire department, and changing the rules and regulations of the fire department promulgated before June 20, 1906, under D.C. Code, sec. 4-402.

(108) Determining and fixing limits of age for original appointments to the fire department under D.C. Code, sec. 4-403.

(109) Prescribing rules and regulations for installing in suburbs extra apparatus and appliances belonging to the fire department under D.C. Code, sec. 4-411.

(110) Entering into and renewing reciprocal agreements under D.C. Code, sec. 4-414(a).

(111) Promulgating rules and regulations regarding the selection and reporting of the names of privates and sergeants possessed of outstanding efficiency under D.C. Code, sec. 4-802.

(112) Promulgating regulations regarding additional compensation for working on holidays under D.C. Code, sec. 4-807.

(113) Designating holidays with respect to officers and members of the Metropolitan Police force and the Fire Department under D.C. Code, sec. 4-808.

(114) Promulgating regulations to carry out the intent and purposes of the Act of August 1, 1958 under D.C. Code, sec. 4-835.

(115) ¹ Promulgating regulations (regarding determination whether injury or disease resulted from the performance of duty) under D.C. Code, sec. 4-909(b) (5 U.S.C. 6324(b)).

5. Building restrictions and regulations

(116) Making regulations for the care and preservation of parkings (established under the Act of June 21, 1906) under D.C. Code, sec. 5-205.

(117) Determining numbers and material, type, and construction of fire escapes under D.C. Code, sec. 5-301.

(118) Adopting regulations to accomplish the purposes and carry into effect the provisions of the Act of March 19, 1906 (relating to fire escapes and safety) under D.C. Code, sec. 5-304.

(119) Promulgating regulations requiring the provision, installation, and maintenance of means of egress, guide signs, guide lights, exit lights, hall and stairway lights, standpipes, fire extinguishers, alarm gongs, striking stations, and other appliances under D.C. Code, sec. 5-317.

(120) Regulating the maximum height of buildings on blocks immediately adjacent to public buildings or to the side of any public building for which plans have been prepared and money appropriated at the time of the application for the permit to construct the building under D.C. Code, sec. 5-405.

(121) Preparing (in consultation with the National Capital Planning Commission) plats defining the areas within which applications for building permits shall be submitted to the Commission of Fine Arts under D.C. Code, sec. 5-411.

(122) Approving boundaries of project areas and redevelopment plans and modifications of redevelopment plans under D.C. Code, secs. 5-705 and 5-711.

(123) Approving the entering by the District of Columbia Redevelopment Land Agency into contracts and agreements, relating to financial assistance, under D.C. Code, sec. 5-717a(a).

(124) Approving the acceptance by the District of Columbia Redevelopment Land Agency of advances of funds for surveys and plans, and approving transfers of funds by that Agency to the National Capital Planning Commission, under D.C. Code, sec. 5-717a(b).

(125) Entering into agreements with the District of Columbia Redevelopment Land Agency respecting certain cash payments from funds of the District of Columbia under D.C. Code, sec. 5-717a(d).

(126) Approving releases, modifications, and departures from features and details of approved redevelopment plans under D.C. Code, sec. 5-718(a).

(127) Transferring all right, title, and interest in and to part or all of certain property to the District of Columbia Redevelopment Land Agency under D.C. Code, sec. 5-720.

(128) Determining whether such property is necessary to the development of the southwest section in accordance with an approved urban renewal plan, determining how much of the property is necessary to carry out such urban renewal plan, and transferring and donating to the Agency all right, title, and interest of the United States in and to the property under D.C. Code, sec. 5-721.

(129) Transferring to the District of Columbia Redevelopment Land Agency jurisdiction regarding transferred property under D.C. Code, sec. 5-722.

(130) Prescribing regulations for making relocation payments to individuals, families, business concerns, and non-profit organizations for their moving expenses and actual direct losses caused by their displacement from real property acquired for public works projects under D.C. Code, sec. 5-729.

(131) Making regulations to carry out the purposes of the Act of October 6, 1964 under D.C. Code, sec. 5-732.

(132) Adopting regulations to bring horizontal property regimes into compliance with the laws and regulations in

effect in the District of Columbia under D.C. Code, sec. 5-928.

6. Health and safety

(133) Altering, amending, or repealing ordinances of the former Board of Health which were legalized by the Act of April 24, 1880 under D.C. Code, sec. 6-114.

(134) Promulgating rules and regulations to prevent and control the spread of communicable diseases under D.C. Code, sec. 6-118.

(135) By regulation, denominating the diseases within the meaning of "communicable diseases" under D.C. Code, sec. 6-119.

(136) Prescribing penalties for violation of communicable disease regulations under D.C. Code, sec. 6-119h.

(137) Making rules and regulations governing the certification of the given name of a child under D.C. Code, sec. 6-301(a).

(138) Adopting rules and regulations governing the filing of reports of births and the issuance of delayed birth certificates under D.C. Code, sec. 6-301(b).

(139) Making regulations for the collection and disposition of garbage and annexing penalties to such regulations under D.C. Code, sec. 6-501.

(140) Making regulations to carry out the purposes of the Act of March 4, 1929 (relating to combustible refuse) under D.C. Code, sec. 6-507.

(141) Specifying fees for disposing of combustible material in incinerators built by the District of Columbia, and designating routes for hauling or transporting the material, under D.C. Code, sec. 6-511.

(142) Prescribing by regulation the manner of describing, on mattress tags, material used in mattresses under D.C. Code, sec. 6-603.

(143) Making regulations to regulate the design, construction, and maintenance of disposal systems, and the handling, storage, treatment, and disposal of wastes, under D.C. Code, sec. 6-703.

(144) Making and promulgating classifications and regulations for the installation and operation of combustion and other devices susceptible for use in such manner as to violate purposes of smoke prevention law, amending or rescinding such regulations, and promulgating amended for additional regulations under D.C. Code, sec. 6-802.

(145) Making rules and regulations to carry out authority to take measures for the protection of persons and property under D.C. Code, sec. 6-1009 (preamble).

(146) Making regulations to govern the establishment, maintenance, and operation of civil defense units and organizations and the discipline of the members thereof under D.C. Code, sec. 6-1009(a).

(147) Prescribing penalties for violations of regulations promulgated pursuant to the Act of December 26, 1941 under D.C. Code, sec. 6-1010.

(148) Promulgating regulations requiring that cancer, sarcoma, lymphoma (including Hodgkin's disease), leukemia, and all other malignant growths be reported under D.C. Code, sec. 6-1301.

(149) Prescribing a penalty or fine for the violation of any regulation promulgated under the Act of July 27, 1951 under D.C. Code, sec. 6-1304.

7. Highways, streets, and bridges

(150) Making regulations for keeping in repair streets, avenues, alleys, sewers, and other works under D.C. Code, sec. 7-101.

(151) Changing the name of any street, road, avenue, or other highway when there is duplication of names under D.C. Code, sec. 7-106.

(152) Naming or renaming streets, avenues, alleys, highways, and reservations under D.C. Code, sec. 7-107.

(153) Determining the extent to which plans for the extension of a permanent system of highways may be out of conformity with the street plan of the city of Washington under D.C. Code, sec. 7-108.

(154) Naming streets, avenues, alleys, and reservations under D.C. Code, secs. 7-112 and 7-116.

(155) Abandoning or readjusting streets or proposed streets (in order to provide grounds for educational, religious, or similar institutions) under D.C. Code, sec. 7-113.

(156) Determining the extent to which plans for the extension of highways may be out of conformity with

street plan, and naming streets, avenues, alleys, and reservations, under D.C. Code, sec. 7-116.

(157) Accepting the dedication of streets, prescribing regulations in regard to the height of parking and the projection of buildings beyond the building line, and making determinations respecting the District of Columbia having right-of-way through parking, under D.C. Code, sec. 7-117.

(158) Determining the extent to which new highway plans may be out of conformity with the street plan under D.C. Code, sec. 7-122.

(159) Opening, extending, or widening streets, avenues, roads, or highways under D.C. Code, sec. 7-201.

(160) Closing alleys or parts of alleys under D.C. Code, sec. 7-302.

(161) Accepting the dedication of alleys, and closing existing alleys, under D.C. Code, sec. 7-303.

(162) Closing alleys or parts of alleys under D.C. Code, sec. 7-304.

(163) Closing alleys under D.C. Code, sec. 7-305.

(164) Making orders declaring existing alleyways closed and opening new substitute alleyways, under D.C. Code, sec. 7-306.

(165) Making an order canceling existing subdivision of any square and obliterating alleys therein under D.C. Code, sec. 7-308.

(166) Closing alleys or parts of alleys under D.C. Code, sec. 7-309.

(167) Setting land aside for alley purposes under D.C. Code, sec. 7-310.

(168) Closing any street, road, highway, or alley, or any part of any thereof (including the making of the required finding thereon) under D.C. Code, sec. 7-401.

(169) Making regulations for the safety of the public using bridges and for the lighting and the police control of bridges under D.C. Code, sec. 7-501.

(170) Ordering the removal of abandoned street railway tracks, settling claims against D.C. Transit System, Inc., for the paving of abandoned track areas, and determining terms and conditions as to time of payment or payments under D.C. Code, sec. 7-604a.

(171) Regulating the location and depth of gas mains under D.C. Code, sec. 7-706.

(172) Jurisdiction and control over MacArthur Boulevard (formerly Conduit Road) and levying assessments for public improvements, under D.C. Code, sec. 7-1201 (40 U.S.C. 53a).

(173) Denominating portions of streets as business streets, and prescribing general regulations, under D.C. Code, sec. 7-1205.

(174) Granting a Railroad Company permission to lay, maintain, and use sidetracks and sidings under D.C. Code, sec. 7-1210.

(175) Approving the point or points at which additional stations or depots may be constructed, established, and maintained, and approving plans for connecting tracks and elevated structures, under D.C. Code, sec. 7-1212.

(176) Approving the construction of railroad tracks and appurtenant turnouts, branch tracks, and sidings under D.C. Code, sec. 7-1218; and approving plans for the construction of branch sidings under the Act of September 26, 1961 (D.C. Code, note at sec. 7-1218).

(177) Approving the location and construction of railroad tracks, turnouts, branch tracks, spurs, and sidings, under D.C. Code, sec. 7-1219.

(178) Approving wage rates fixed and adjusted from time to time by a wage board, under D.C. Code, sec. 7-1236.

8. Parks

(179) Setting aside space in the streets and avenues for park purposes, denominating portions of streets as business streets, and prescribing general regulations under D.C. Code, sec. 8-108.

(180) Jurisdiction and control of the street parking in streets and avenues under D.C. Code, sec. 8-110.

(181) Transferring jurisdiction over properties or parts thereof to Federal authorities, and accepting from Federal authorities jurisdiction over properties or parts thereof, under D.C. Code, sec. 8-115 (40 U.S.C. 122).

(182) Making rules and regulations for the management of a public convenience station, and fixing charges for the use of such station under D.C. Code, sec. 8-138.

(183) Making rules and regulations for the management of public convenience stations, and fixing charges for the use of the conveniences, under D.C. Code, sec. 8-140.

(184) Accepting land and dedications of land under D.C. Code, sec. 8-162.

(185) Making regulations relating to a beach and dressing houses under D.C. Code, sec. 8-168.

9. Public buildings and grounds

(186) Making rules and regulations for the government and control of wharves, piers, bulkheads, structures, adjacent waters, basins, slips, docks, and land under water under D.C. Code, sec. 9-101.

(187) Making rules and regulations for the government and proper care of property and annexing penalties to said rules and regulations, and making rules and regulations in regard to building and repairing wharves, the rental thereof, and the rate of wharfage, under D.C. Code, sec. 9-102.

(188) Fixing penalties of bonds of employees under D.C. Code, sec. 9-134(a).

(189) Prescribing by regulation the uniform and identification badge to be worn by individuals under D.C. Code, sec. 9-134(b).

(190) Making and amending regulations for the protection of life and property in or on institutional buildings or grounds under D.C. Code, sec. 9-135.

(191) Acquiring certain squares and reservations, including buildings and other structures thereon, as a site for a municipal center, and closing and vacating portions of streets and alleys, under D.C. Code, sec. 9-201.

(192) Making the finding that real estate is no longer required for a public purpose, under D.C. Code, sec. 9-301 (40 U.S.C. 72c).

(193) Exchanging District-owned land or part thereof under D.C. Code, sec. 9-401.

10. Weights, measures, and markets

(194) Prescribing the manner of approving and sealing, stamping, or marking devices or appliances under D.C. Code, sec. 10-103.

(195) Establishing and allowing variation, tolerances, and exemptions, as to small packages, under D.C. Code, sec. 10-117.

(196) Fixing standard loads by which split wood may be sold under D.C. Code, sec. 10-118.

(197) Establishing tolerances and specifications for scales, weights, measures, weighing or measuring instruments or devices, and containers under D.C. Code, sec. 10-127.

(198) Prescribing regulations governing the granting of licenses for the location of public scales, and approving and fixing fees, under D.C. Code, sec. 10-128.

(199) Making regulations for the control, regulation, and supervision of markets under D.C. Code, sec. 10-130.

(200) Making regulations for the control, regulation, and operation of the municipal fish wharf and market under D.C. Code, sec. 10-135.

(201) Making and promulgating rules and regulations for the control and operation of the wholesale farmers' produce market, and establishing a scale of charges, under D.C. Code, sec. 10-137.

11. Feeble-minded persons

(202) Adopting regulations relating to receiving feeble-minded persons into the District Training School under D.C. Code, sec. 21-1102.

(203) Prescribing general conditions for granting paroles to patients under D.C. Code, sec. 21-1120.

12. Criminal offenses

(204) Restricting, prohibiting, regulating, and controlling hunting and fishing and the taking, possession, and sale of wild animals under D.C. Code, sec. 22-1628.

(205) Prescribing regulations regarding the disposal of property under D.C. Code, sec. 22-1630(a) (last sentence).

(206) Making, altering, and amending harbor regulations under D.C. Code, sec. 22-1701.

(207) Establishing rules and regulations for the administration of the Act of August 12, 1937 (relating to the marking and labeling of packages of potatoes) under D.C. Code, sec. 22-3409.

(208) Making rules and regulations to carry out the Act of December 16, 1941 (relating to food which is unwholesome or unfit for use) under D.C. Code, sec. 22-3419.

13. Execution fees

(209) Fixing the fees of an executioner and his assistants for services under D.C. Code, sec. 23-702.

14. Prisoners; institutions

(210) Rules and regulations permitting the discharge of parolees under D.C. Code, sec. 24-204(b).

(211) Prescribing regulations for employment of persons sentenced to imprisonment in the jail under D.C. Code, sec. 24-412.

(212) Prescribing regulations regarding the sale of surplus products under D.C. Code, sec. 24-418.

(213) Rules and regulations for the government of institutions under D.C. Code, sec. 24-442.

15. Alcoholic beverages

(214) Prescribing other authority under D.C. Code, sec. 25-106 (last sentence).

(215) Prescribing, making, altering, and amending rules and regulations under D.C. Code, sec. 25-107.

(216) Promulgating regulations under D.C. Code, sec. 25-111(c).

(217) Requiring by regulation that no licensee holding a retailer's license, Class A, B, C, D, or E shall transport any alcoholic beverage into the District of Columbia, permitting such importation under a special permit or permits, prescribing the terms, conditions, and manner of issuance of such permit or permits, and suspending, amending, revoking, or abolishing any such regulations, permit, or system of permits under D.C. Code, sec. 25-112.

(218) Promulgating regulations to permit owners of warehouse receipts to withdraw bonded liquors under D.C. Code, sec. 25-115(c).

(219) Suspending or revoking in whole or in part the requirements of D.C. Code, sec. 25-123, under D.C. Code, sec. 25-123(c).

(220) Prescribing by regulation methods or devices or both for the assessment, evidencing of payment, and collection of taxes under D.C. Code, sec. 25-124(c)(3).

(221) Requiring that the immediate container of each beverage contain the license number of each licensee who sells or offers for sale such beverages under D.C. Code, sec. 25-124(g).

(222) Prescribing the manner of collection and payment of tax on beer under D.C. Code, sec. 25-138.

16. Charters of incorporation; money lending

(223) Granting or refusing a charter of incorporation under D.C. Code, sec. 26-305.

(224) Making rules and regulations for the conduct of business of making loans, and for the enforcement of the Act of February 4, 1913, under D.C. Code, sec. 26-611.

17. Tissue banks; crematorium

(225) By regulations, authorizing tissue banks and others to remove, transport, and dispose of tissue from dead bodies of human beings without permit under D.C. Code, sec. 27-119a.

(226) Making rules for the proper maintenance and operation of a public crematorium under D.C. Code, sec. 27-130.

18. Standard time

(227) Advancing the standard time applicable to the District of Columbia under D.C. Code, secs. 28-2711 and 28-2804.

19. Corporations

(228) Approving newspapers in which persons may give notice of intention to present to Congress bills for incorporation or for alteration or extension of corporation charters under D.C. Code, sec. 29-102.

(229) Fixing fees relating to process under D.C. Code, sec. 29-933(e)(2).

(230) Making rules and regulations relating to service of process under D.C. Code, sec. 29-933(e)(5).

(231) Providing an official seal under D.C. Code, sec. 29-935(c).

(232) Making and modifying regulations to carry out the Act of June 8, 1954, and prescribing penalties for

the violation of any such regulations, under D.C. Code, sec. 29-935(f).

(233) Determining fee which shall be charged for furnishing a certificate as to the status of a corporation or as to the existence or nonexistence of facts relating to corporations under D.C. Code, sec. 29-936(b)(21).

(234) Making regulations providing for fees for services under D.C. Code, sec. 29-1092(s).

(235) Making and modifying regulations to carry out the provisions of the Act of August 6, 1962, and prescribing penalties for the violation of any such regulation, under D.C. Code, sec. 29-1093(e).

20. Education

(236) Approving amounts fixed by the Board of Education to be paid for non-residents to cover the expense of tuition and costs of textbooks and school supplies under D.C. Code, sec. 31-307(b).

(237) Approving regulations made by the Board of Education to carry out the intent and purposes of the Act of September 8, 1960 under D.C. Code, sec. 31-308(a).

(238) Making rules and regulations for the purpose of carrying into full force and effect the provisions of the Act of January 15, 1920 under D.C. Code, sec. 31-717.

(239) Prescribing regulations regarding the deposit of additional sums by any teacher, and prescribing table of mortality, under D.C. Code, sec. 31-721.

(240) Making rules and regulations for the purpose of carrying the provisions of the Act of August 7, 1946 into full force and effect under D.C. Code, sec. 31-736.

(241) Making regulations concerning (i) the form of application by officers of any medical or dental college for registration and a permit to commence or continue business, (ii) the evidence to be adduced in support thereof, and (iii) the method of taking such evidence, giving notice of hearings upon applications, holding hearings, and making inquiries under D.C. Code, sec. 31-902.

(242) Closing streets and alleys under D.C. Code, sec. 31-1108.

(243) Promulgating rules and regulations governing the manner in which the District duties relating to surplus property shall be carried out, including the fixing of fees to be charged for services, under D.C. Code, sec. 31-1302.

(244) All functions vested in the Board of Commissioners of the District of Columbia by D.C. Code, sec. 31-1522(b).

21. Institutions, agencies, and services

(245) Promulgating regulations to govern the establishment and maintenance of private hospitals and asylums, and regulating the issuance, suspension, and revocation of licenses, under D.C. Code, sec. 32-304.

(246) Making rules and regulations under D.C. Code, sec. 32-306.

(247) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-308.

(248) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-309.

(249) Establishing rates and regulations respecting the admission of patients under D.C. Code, sec. 32-310.

(250) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-313.

(251) Prescribing rates for furnishing clinical services, drugs, pharmaceutical preparations, or x-ray service, and determining the necessity of using appropriations without regard to the rates prescribed, under D.C. Code, sec. 32-322.

(252) Establishing standards of indigency for admission of patients to municipal hospitals, and establishing rates at which, and regulations under which, emergency and semi-indigent patients may be admitted to wards of Gallinger Municipal Hospital on a full- or part-time basis, under D.C. Code, sec. 32-326.

(253) Making rules and regulations for enforcing discipline, for imparting instruction or preserving health, and for the physical, intellectual, and moral training of the inmates of the institution for the custody, care, education, training, and treatment of feeble-minded persons under D.C. Code, sec. 32-604.

(254) Approving rules and regulations, and approving amendments of rules and regulations prescribing standards of placement, care, and services to be required of child-placing agencies under D.C. Code, sec. 32-783.

(255) Making, altering, amending, and changing by-laws, rules, and regulations for the government of the National Training School for Girls, its officers, teachers, employees, and inmates, the employment, discipline, instruction, education, removal, and absolute, temporary, or conditional release of girls committed to the school under D.C. Code, sec. 32-904.

(256) Prescribing regulations respecting the sale of surplus products under D.C. Code, sec. 32-1009.

(257) Establishing rates and regulations respecting the care and treatment of any patients under D.C. Code, sec. 32-1010.

22. Food and drugs

(258) Preparing rules and regulations with regard to the proper method of collecting and examining drugs and articles of food, under D.C. Code, sec. 33-104.

(259) Making regulations to protect the milk, cream, and ice cream supply of the District of Columbia under D.C. Code, sec. 33-307.

(260) Prescribing regulations under which milk and cream shall be pasteurized under D.C. Code, sec. 33-315.

(261) By regulation, including places other than creameries or receiving stations under the provisions of section 17 of the Act of February 27, 1925 under D.C. Code, sec. 33-317 (second sentence).

(262) Making rules and regulations for the administration and enforcement of the Narcotic Drug Act of June 20, 1938 under D.C. Code, sec. 33-405.

(263) Making rules and regulations to carry out the purposes of the Act of July 3, 1943 under D.C. Code, sec. 33-502.

(264) After reasonable public notice and opportunity for a hearing, finding and declaring drugs or compounds, preparations, or mixtures thereof to be habit-forming, excessively stimulating, or to have a dangerously toxic, or hypnotic or somnifacient effect on the body of a human or animal under D.C. Code, sec. 33-701(1)(C).

(265) After reasonable public notice and opportunity for hearing, declaring by rule or regulation duly promulgated that a compound, mixture, or preparation of barbituric acid, its salts and derivatives to have or contain no habit-forming properties and not to have a dangerously toxic or hypnotic or somnifacient effect on the body of a human or animal under D.C. Code, sec. 33-703(1).

(266) After reasonable public notice and opportunity for hearing, finding and declaring by rule or regulation duly promulgated that a compound, mixture, or preparation of amphetamine, desoxyephedrine, phenylethylamine, or their salts or derivatives to contain in addition to such drug or its salts and derivatives some other drug or drugs causing it to possess other than an excessively stimulating effect upon the central nervous system and to have no habit-forming properties or dangerously toxic effect upon the body of a human or animal under D.C. Code, sec. 33-703(2).

(267) Promulgating regulations for the administration and enforcement of the Act of July 24, 1956 under D.C. Code, sec. 33-707.

23. Insurance

(268) Making rules and regulations to make the conduct of each company in the same line of insurance conform in doing business in the District under D.C. Code, sec. 35-102.

(269) Prescribing rules and regulations for the hearing of appeals (of health, accident, and life insurance companies) under D.C. Code, sec. 35-202.

(270) Requiring, under D.C. Code, sec. 35-407, that at least once in the month of March in each year a summary of the annual financial statement filed thereunder be published in a daily newspaper.

(271) Making and prescribing rules and regulations (subject to the approval of the court) under D.C. Code, sec. 35-419 (penultimate paragraph).

(272) Requiring information, in addition to that specified in the statute, to be included in applications filed for licensing as life insurance general agent, agent, or solicitor, under D.C. Code, sec. 35-425.

(273) Requiring information, in addition to that specified in the statute, to be included in applications for licensing as a life insurance broker under D.C. Code, sec. 35-428.

(274) Prescribing rules and regulations governing inspectors of elections held by policy holders of domestic stock life insurance companies for the purpose of converting to a mutual company under D.C. Code, sec. 35-519.

(275) Issuing rules and regulations to carry out the purposes of section 41 of the Act of June 19, 1934 under D.C. Code, sec. 35-541(f).

(276) Making rules and regulations concerning the procedure for the filing or submission of policies under D.C. Code, sec. 35-712-3-(f); and making rules and regulations concerning the provisions in supplemental contracts and the submission and approval of such contracts under D.C. Code, sec. 35-712 (last proviso).

(277) Making rules and regulations necessary in making effective the provisions of the Fire and Casualty Act of October 9, 1940 under D.C. Code, sec. 35-1304.

(278) Approving agreements and bylaws established by the rating bureau for its governance, approving rules and regulations adopted by the rating bureau to carry out its functions, and approving amendments to such agreements, bylaws, rules, and regulations under D.C. Code, sec. 35-1404.

(279) Making and promulgating (i) regulations governing the enforcement of the provisions of the Act of May 20, 1948 (providing for regulation of casualty and other insurance rates), (ii) regulations necessary in making that Act effective, and (iii) rules for making compilations of statistical data available to companies and rating organizations under D.C. Code, sec. 35-1508.

24. Labor

(280) Adopting and promulgating regulations defining terms under section 10 of the Act of February 24, 1914 (sec. 3, Public Law 89-684, approved October 15, 1966).

(281) Making and revising regulations, including definition of terms, under section 8 of title I of the Act of September 19, 1918 (Public Law 89-684, approved October 15, 1966).

(282) Prescribing by regulation records or information necessary or appropriate for the enforcement of the provisions of the Act of September 19, 1918, as amended by Public Law 89-684, approved October 15, 1966, or of the regulations or orders issued thereunder, under section 11 of that Act.

(283) (i) Determining and fixing standards of safety in employment, places of employment, in the use of devices and safeguards, and in the use of practices, means, methods, operations, and processes of employment, and (ii) promulgating general rules and regulations and fixing minimum safety requirements, under D.C. Code, sec. 36-433.

(284) Adopting and promulgating rules and regulations under D.C. Code, sec. 36-434.

(285) Promulgating regulations defining and delimiting the term "any person employed in a bona fide executive, administrative, or professional capacity" under D.C. Code, sec. 36-601(b).

25. Motor vehicles

(286) Providing by regulation for the issuance of (i) registration certificates and identification tags, (ii) duplicate registration certificates or duplicate identification tags and (iii) special use identification tags under D.C. Code, sec. 40-102(b); and promulgating thereunder the regulations referred to in paragraphs (1) and (4) thereof.

(287) Extending the effective period of registration of motor vehicles under D.C. Code, sec. 40-102(c).

(288) Prescribing regulations to carry out provisions of law respecting registration of, and identification tags for, motor vehicles and trailers, under D.C. Code, sec. 40-102(e).

(289) Prescribing rules and regulations respecting the revocation or suspension of dealers' registrations and dealers' identification tags, including return of such tags, under D.C. Code, sec. 40-102(f).

(290) Prescribing tags treated with special reflective materials and fixing the additional fee charged in connection therewith under D.C. Code, sec. 40-103(a).

(291) Determining the percentage of fees for registration of motor vehicles and trailers to be credited to the General Fund of the District of Columbia under D.C. Code, sec. 40-103(d).

(292) Prescribing regulations relating to the issuance of motor vehicle operators' permits and to extending the

validity of certain motor vehicle operators' permits under D.C. Code, secs. 40-301(a) (1) and (6).

(293) Prescribing by regulation matter to be stated on each motor vehicle operator's permit under D.C. Code, sec. 40-301(b).

(294) Making rules and regulations for the administration of the Motor Vehicle Safety Responsibility Act of the District of Columbia under D.C. Code, sec. 40-419.

(295) Making, modifying, and repealing rules and regulations under D.C. Code, sec. 40-603(a).

(296) Making and modifying regulations in respect to brakes, horns, lights, mufflers, and other equipment, the inspection of the same; the registering, reregistering, titling, retitling, transferring of titles, and revocation of the certificate of title to motor vehicles and trailers, under D.C. Code, sec. 40-603(c).

(297) Making, modifying, and repealing rules and regulations in respect to the movement of traffic, speed, length, weight, height, width, routing, and parking of vehicles, the establishment and location of hack stands, and the establishment and location of parking areas for use of Members of Congress and Government officials, under D.C. Code, sec. 40-603(e).

(298) Making regulations with respect to the control of traffic under D.C. Code, sec. 40-603(f).

(299) Prescribing penalties under D.C. Code, sec. 40-603(g).

(300) Designating and reserving parking spaces for the use of Members of the Congress under D.C. Code, sec. 40-604 (40 U.S.C. 60a).

(301) Permitting parking of motor vehicles in the Municipal Center, selecting officers and employees whose vehicles may be parked there, and making regulations for the control of the parking of such vehicles, including authority to prescribe fees and charges for the privilege of parking of such vehicles, under D.C. Code, sec. 40-604a(a).

(302) Permitting the public to park motor vehicles in a portion or portions of the Municipal Center, setting aside the portion or portions of that Center for such purpose, making regulations for the control of parking in the portion or portions so set aside (including the authority to restrict the privilege of parking therein to persons having business in the Municipal Center), making regulations to prohibit parking in all portions of the Municipal Center not set apart for such purposes, and prescribing fees and charges for the privilege of parking motor vehicles, under D.C. Code, sec. 40-604a(b).

(303) Prescribing penalties under D.C. Code, sec. 40-604a(c).

(304) Making rules and regulations for the control of the parking of vehicles, and prescribing fees for the privilege of parking vehicles under D.C. Code, sec. 40-616.

(305) Making regulations necessary in the furtherance of the purposes of D.C. Code, sec. 40-617 under the last sentence thereof.

(306) Establishing and revising uniform schedules of rates to be charged for use of space in each parking facility, providing rate differentials, prescribing and promulgating rules and regulations for the carrying out of the provisions of the District of Columbia Motor Vehicle Parking Facility Act of 1942, determining the time within which the cost of acquiring and improving the property shall be liquidated, and providing for the acquisition and improvement of other necessary parking facilities under D.C. Code, sec. 40-804(d).

(307) Making rules and regulations for the control of parking of vehicles, and prescribing fees for the parking of vehicles, under D.C. Code, sec. 40-804(e).

(308) Fixing the amount of collateral to be deposited under D.C. Code, sec. 40-810.

(309) Including fees within the definition of the term "Governmental charges" under D.C. Code, sec. 40-901(4).

(310) By regulation or order, determining, fixing, re-determining, and refixing, maximum finance charges under D.C. Code, sec. 40-902(d).

(311) Making regulations to carry out the purposes of section 2 of the Act of April 22, 1960 under D.C. Code, sec. 40-902(e) (1).

(312) Making additional regulations under D.C. Code, sec. 40-902(e) (2).

(313) Making classifications under D.C. Code, sec. 40-902(e) (3).

(314) By regulation, (i) prohibiting the inclusion of certain provisions in any retail installment contract, and (ii) providing that waivers or purported waivers shall be void and of no effect, under D.C. Code, sec. 40-902(f).

(315) Prescribing by regulation security required of licensed persons, establishing classes and subclasses of persons, specifying the amount and conditions of the bond to be deposited by each of the members of any such class or subclasses, and by regulation requiring applicants for licenses (i) to furnish and keep in force a bond or other security, (ii) to procure and keep in force public liability insurance and property damage insurance, or both, and (iii) to appoint an attorney for the service of process and notices under D.C. Code, sec. 40-903(a).

(316) Promulgating regulations to carry out the purposes of Act regulating retail installment sales of motor vehicles under D.C. Code, sec. 40-905.

26. Public utilities

(317) Fixing regulations under which electric light companies may be authorized to construct, use, and extend conduits, and prescribing regulations under which electric lighting companies may extend underground conduits and wires, under D.C. Code, sec. 43-1101.

(318) Prescribing conditions and regulations to permit the erection of poles and the stringing of overhead wires thereon under D.C. Code, sec. 43-1105.

(319) Making regulations concerning granting of permits for repair, enlargement, and extension of electric-lighting conduits under D.C. Code, sec. 43-1106.

(320) Making regulations concerning granting of permits for repair, enlargement, and extension of electric-lighting conduits under D.C. Code, sec. 43-1107.

(321) Prescribing regulations under D.C. Code, sec. 43-1406.

(322) Prescribing regulations under D.C. Code, sec. 43-1414.

(323) Making regulations for the proper distribution of water under D.C. Code, sec. 43-1503.

(324) Determining the frequency of levying and collecting water rates under D.C. Code, sec. 43-1504.

(325) Fixing the rates charged for water and water services under D.C. Code, sec. 43-1520c.

(326) Establishing charges for the provision of sanitary sewer service under D.C. Code, secs. 43-1605 and 43-1606.

(327) Promulgating regulations to effectuate purposes of Title II of the Act of May 18, 1954 under D.C. Code, sec. 43-1608.

(328) Imposing additional charge for unpaid sanitary sewer service charge under D.C. Code, sec. 43-1609.

(329) Making rules and regulations to carry out provisions of Public Works Act of 1954 under D.C. Code, sec. 43-1618.

(330) Prescribing regulations respecting the operation and maintenance of the Potomac Interceptor under D.C. Code, sec. 43-1621(a).

27. Passenger motor vehicles for hire

(331) Approving form of, and terms and conditions of filing, evidence under D.C. Code, sec. 44-301.

(332) Making rules and regulations governing the writing of insurance, the making of bonds, and the business of insuring or bonding risks under D.C. Code, sec. 44-302.

28. Real property

(333) Prescribing by regulation extensions of time under D.C. Code, sec. 45-723(d) (1).

(334) Prescribing by regulation methods or devices, or both, for the evidencing of payment and the collection of taxes under D.C. Code, sec. 45-736.

(335) Prescribing rules and regulations to carry out the purposes of subchapter II of chapter 7 of title 45 of the D.C. Code, under D.C. Code, sec. 45-737.

(336) Adopting a seal and prescribing the design engraved thereon, and making, revising, or repealing regulations to carry out the provisions of chapter 14 of title 45 of the D.C. Code, under D.C. Code, sec. 45-1403.

(337) Requiring proof of the honesty, truthfulness, and integrity of the applicant under D.C. Code, sec. 45-1405.

29. Social security

(338) Prescribing regulations for estimating and determining the reasonable cash value of remuneration in any

medium other than cash and for estimating and determining the reasonable amount of gratuities under D.C. Code, sec. 46-301(c).

(339) Prescribing by regulation the period of time as equivalent to a calendar quarter under D.C. Code, sec. 46-301(k).

(340) Prescribing the period of time to be used for the term "month" under D.C. Code, sec. 46-301(n).

(341) Prescribing by regulation the period of seven consecutive days to be used as a "week" under D.C. Code, sec. 46-301(o).

(342) Prescribing regulations specifying time within which employers shall make a return of, and pay contributions accrued with respect to, wages paid during preceding calendar quarter with respect to employment, under D.C. Code, sec. 46-304(b).

(343) Prescribing regulations respecting issuance of certificate of release of lien for taxes under D.C. Code, sec. 46-304(e).

(344) Prescribing the extent to which rulings, regulations, or decisions shall be applied without retroactive effect under D.C. Code, sec. 46-304(k).

(345) Prescribing regulations regarding reduction of benefits under D.C. Code, sec. 46-307(c).

(346) Prescribing regulations regarding the making of claims for benefits under D.C. Code, sec. 46-309(a).

(347) Prescribing regulations specifying the frequency and manner of registration and inquiries for work, and by regulation waiving or altering requirements for benefits, under D.C. Code, sec. 46-309(d).

(348) Prescribing regulations governing determinations as to what constitutes leaving work voluntarily without good cause under D.C. Code, sec. 46-310(a).

(349) Prescribing regulations under D.C. Code, sec. 46-310(c).

(350) Prescribing regulations under D.C. Code, sec. 46-310(e).

(351) Prescribing regulations under D.C. Code, sec. 46-311(a).

(352) Prescribing regulations under D.C. Code, sec. 46-311(c).

(353) Prescribing regulations under D.C. Code, sec. 46-311(e).

(354) Fixing rate of fees allowed witnesses under D.C. Code, sec. 46-311(g).

(355) Requiring bonds of employees under D.C. Code, sec. 46-313(a).

(356) Making regulations to carry out the provisions of chapter 3 of title 46 of the D.C. Code under D.C. Code, sec. 46-313(b).

(357) By regulations prescribing restrictions, subject to which information may be made available, under D.C. Code, sec. 46-313(f).

(358) Entering into reciprocal arrangements under D.C. Code, sec. 46-316(a).

(359) Prescribing work records to be kept, under D.C. Code, sec. 46-317(a).

30. Taxation and fiscal affairs

(360) Fixing amounts of bonds under D.C. Code, secs. 47-113c and 47-120a.

(361) Requiring the giving of bond under D.C. Code, sec. 47-122.

(362) Requiring the giving of bond under D.C. Code, sec. 47-303.

(363) Ascertaining, determining, and fixing annually rate of taxation under D.C. Code, sec. 47-501.

(364) Determining whether any money raised in any fiscal year in excess of the needs for that year shall be available in the succeeding year for the purpose of meeting expenses or for enabling the fixing of a lower rate of taxation for the year following, or both, under D.C. Code, sec. 47-503.

(365) Reporting annually to the Congress the use being made of property specifically exempted from taxation, and any changes in such use, with recommendations, under D.C. Code, sec. 47-801a(e).

(366) Making and promulgating rules and regulations to carry out the intent and purposes of the Act of December 24, 1942 under D.C. Code, sec. 47-801f.

(367) Fixing date of sale of real property on which taxes are levied and in arrears under D.C. Code, sec. 47-1001.

(368) Requiring by regulation the times and manner of reporting income and the information to be reported under D.C. Code, sec. 47-1577a(b) (17) (last paragraph) (Public Law 89-591).

(369) Promulgating rules and regulations permitting as a deduction from gross income allowances for depletion of natural resources under D.C. Code, sec. 47-1557b(a) (7).

(370) Including in regulations tax table for elective use in connection with paying the tax under D.C. Code, sec. 47-1567b(b).

(371) Prescribing regulation or regulations for determining under formula or formulas provided therein the portion of net income subject to tax under the District of Columbia Income and Franchise Tax Act of 1947 under D.C. Code, sec. 47-1580a.

(372) Prescribing and promulgating all regulations referred to in D.C. Code, sec. 47-1586g.

(373) Prescribing and publishing rules and regulations for the enforcement of the District of Columbia Income and Franchise Tax Act of 1947 under D.C. Code, sec. 47-1595.

(374) Making rules and regulations to carry out the provisions of the District of Columbia Revenue Act of 1956 under D.C. Code, sec. 47-1595a.

(375) Making rules and regulations for enforcement of law imposing inheritance and estate taxes and providing for granting extensions of time under D.C. Code, sec. 47-1618.

(376) Prescribing regulations relating to issuing certificate releasing property from lien under D.C. Code, sec. 47-1623.

(377) Entering into a compact and issuing rules and regulations for the implementation of such compact under section 103 of Public Law 89-11, approved April 14, 1965 (79 Stat. 60).

(378) Entering into an agreement, issuing rules and regulations for the implementation of such agreement, making exemptions from the coverage of the agreement, making changes in methods of reporting, and giving notice of withdrawal from the agreement, under sections 202, 203, and 205 of Public Law 89-11, approved April 14, 1965 (79 Stat. 65, 66).

(379) Promulgating regulations requiring information to be contained in applications under D.C. Code, sec. 47-1903(a) (5).

(380) Making regulations for the administration of the Act of April 23, 1924 (imposing tax on motor-vehicle fuels), and affixing thereto fines and penalties, under D.C. Code, sec. 47-1916.

(381) Determining penal sum of bond to be deposited by applicants for licenses under D.C. Code, sec. 47-2102.

(382) Adopting seal under D.C. Code, sec. 47-2301.

(383) Prescribing regulations for the public decency under D.C. Code, sec. 47-2303.

(384) Classifying buildings, and requiring licenses, under D.C. Code, sec. 47-2328.

(385) Directing as to the identification tags to be borne by licensed vehicles under D.C. Code, sec. 47-2331(f).

(386) Making and modifying regulations governing the conduct of licensed vendors under D.C. Code, sec. 47-2336.

(387) Making regulations for the examination of applicants for licenses under D.C. Code, sec. 47-2338.

(388) Classifying dealers in secondhand personal property under D.C. Code, sec. 47-2339.

(389) Making and promulgating regulations under D.C. Code, sec. 47-2340.

(390) Making regulations for the government and conduct of the business of licensed private detectives under D.C. Code, sec. 47-2341(d).

(391) Requiring a license of businesses or callings other than those specified in the Act and modifying any provision of the Act, under D.C. Code, sec. 47-2344.

(392) Prescribing additional subjects in which applicants for license as undertaker shall be examined under D.C. Code, sec. 47-2344a(b).

(393) Promulgating and altering rules and regulations under D.C. Code, sec. 47-2344a(d) (6).

(394) Making regulations under D.C. Code, sec. 47-2345(a).

(395) Providing by regulation that any inspection shall be made either prior or subsequent to the issuance of a license under D.C. Code, sec. 47-2345(b).

(396) Requiring that a class or subclasses of licensees give bond, and fixing the amount of such bond, under D.C. Code, sec. 47-2345(c).

(397) Making rules and regulations to carry out the provisions of the District of Columbia Revenue Act of 1937, and prescribing and publishing rules and regulations for the enforcement of the Revenue Act of 1939, under D.C. Code, sec. 47-2502.

(398) Prescribing amounts to be added to sales prices and collected from purchasers under D.C. Code, sec. 47-2604(a).

(399) Prescribing regulations governing refunds to vendors of amounts repaid to purchasers under D.C. Code, sec. 47-2617(a).

(400) Making, adopting, and amending regulations under D.C. Code, sec. 47-2620.

(401) Prescribing methods for determining the gross proceeds from sales made or services rendered and for the allocation of such sales and services into taxable and non-taxable sales under D.C. Code, sec. 47-2621(c).

(402) Requiring vendors to keep detailed records, and to furnish information, under D.C. Code, sec. 47-2621(d).

(403) Requiring vendors to file bond, determining the sureties necessary, and the duration of the bond under D.C. Code, sec. 47-2708.

(404) Requiring purchasers to include in monthly returns (relating to compensating-use tax) information necessary for the computation and collection of the tax under D.C. Code, sec. 47-2711(a).

(405) Requiring returns of purchasers to be made for periods and upon dates other than those specified in the Act, and specifying such periods and dates, under D.C. Code, sec. 47-2711(b).

(406) By regulation, including wrapper within the definition of "original package" under D.C. Code, sec. 47-2801(g).

(407) By regulation, permitting tax stamps to be affixed other than to original packages, and approving regulations prescribing the manner of cancellation of stamps, under D.C. Code, sec. 47-2802(c).

(408) Prescribing stamps denoting payment of tax, under D.C. Code, sec. 47-2802(d).

(409) By regulation permitting licensees to pay tax by imprinting impressions upon original packages by the use of metering devices under D.C. Code, sec. 47-2802(h).

(410) By regulation, prescribing terms and conditions for allowing discount from the face value of tax stamps under D.C. Code, sec. 47-2802(i).

(411) Approving regulations permitting cigarettes to be sold in number less than the number contained in the original package, and fixing fee for retailer's license, under D.C. Code, sec. 47-2805(A).

(412) By regulation, requiring that a separate license be obtained for each vending machine or permitting a blanket license for one or more machines, prescribing that evidence of licensing of machines be attached to each machine by means of markers, stickers, or otherwise, and fixing the annual fee for licenses, under D.C. Code, sec. 47-2805(B).

(413) By regulation, authorizing the issuance of a license for a place outside the District of Columbia and authorizing the terms and conditions therefor, and fixing the annual fee for license, under D.C. Code, sec. 47-2805(C)(3).

(414) Fixing by regulation periods for which licenses shall remain in effect, under D.C. Code, sec. 47-2806.

(415) Making rules and regulations to carry out the provisions of chapter 28 of title 47 of the D.C. Code, under D.C. Code, sec. 47-2808.

(416) Prescribing regulations respecting refunds or allowances as credit on purchase of new tax stamps under D.C. Code, sec. 47-2811(a).

(417) Promulgating regulations to carry out the purposes of the Act of September 1, 1959 under D.C. Code, sec. 47-3009.

31. Miscellaneous

(418) Promulgating rules and regulations with respect to the solicitation and voting of proxies, consents, and authorizations under section 2(a) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 123).

(419) By rules and regulations, exempting a transaction or transactions, under section 3(b) (last sentence)

of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124).

(420) By rules and regulations, defining and prescribing terms and conditions under section 3(d) (last sentence) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124).

(421) Adopting, prescribing, and making the rules and regulations referred to in sections 3(e), 3(f), and 3(h) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124; 125).

(422) Making regulations to secure the preservation of public order and protection of life, health, and property, making special regulations respecting the standing, movement, and operation of vehicles, and fixing fees for special licenses, under the first section of the Act of July 19, 1966 (Public Law 89-514; 80 Stat. 320).

(423) Adopting rules and regulations to carry out the purposes of the District of Columbia Certified Public Accountancy Act of 1966 (Public Law 89-578, approved September 16, 1966), under section 5 of that Act (80 Stat. 787).

(424) Making rules and regulations to carry out the District of Columbia Revenue Act of 1966 (Public Law 89-610, approved September 30, 1966) under section 1005 of that Act (80 Stat. 859).

(425) Appointing two directors of the Washington Metropolitan Area Transit Authority (80 Stat. 1326). Those directors shall be appointed from among a group of individuals consisting of the following: (1) The members of the District of Columbia Council, (2) the Commissioner of the District of Columbia, and (3) the Assistant to the Commissioner of the District of Columbia (provided for in section 302 of this reorganization plan).

(426) Promulgating rules and regulations for the administration of the work release program under Section 5 of the District of Columbia Work Release Act (Public Law 89-803; 80 Stat. 1519).

(427) ¹ Fixing stipends of student employees under 5 U.S.C. 5352.

(428) ¹ Fixing value of accommodations to be deducted from stipends under 5 U.S.C. 5353.

(429) ¹ Prescribing and issuing, or providing for the formulation and issuance of, regulations under 5 U.S.C. 5527(b).

(430) Prescribing regulations for the destruction of animals or live poultry affected with contagious, infectious, or communicable disease, and for the proper disposition of their hides and carcasses, and prescribing regulations for disinfection and other regulations, under section 8 of the Act of May 29, 1884, c. 60, 25 Stat. 33, as amended (21 U.S.C. 130).

(431) Agreeing to the closing and vacating of alleys and portions of streets under section 8(b) of the Public Buildings Act of 1959, P.L. 86-249, 73 Stat. 481, as amended (40 U.S.C. 607(b)).

(432) The functions under Title VI of the Act of October 14, 1940, c. 862, as amended (42 U.S.C. 1581-1590) which are now vested in the Board of Commissioners of the District of Columbia pursuant to the provisions of section 610 of that Act, as amended (42 U.S.C. 1590).

SEC. 403. *Budget.* Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions,

See footnote at end.

to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council.

SEC. 404. *Zoning Commission.* Functions of the members of the Board of Commissioners of the District of Columbia with respect to serving as members of the Zoning Commission (D.C. Code, sec. 5-412) are hereby transferred as follows:

(a) Those of the President of the Board of Commissioners are transferred to the Chairman of the District of Columbia Council.

(b) Those of the Engineer Commissioner are transferred to the Commissioner of the District of Columbia.

(c) Those of the other member of the Board of Commissioners are transferred to the Vice Chairman of the Council.

SEC. 405. *Officers of the Corporation.* The functions of the Commissioners of the District of Columbia with respect to being officers of the Corporation under D.C. Code, sec. 1-103 are hereby transferred to the members of the District of Columbia Council and to the Commissioner of the District of Columbia in such manner as to accord with the transfers of functions to the Council and the Commissioner, respectively, as effected by the provisions of the foregoing sections of Part IV of this reorganization plan.

SEC. 406. *Approval or disapproval by Commissioner.* (a) Each and every action taken by the Council in pursuance of authority transferred to it by the provisions of this reorganization plan in respect of rules or regulations (exclusive of rules and regulations respecting the internal organization or functioning of the Council or the appointment or direction of personnel employed by the Council) or in respect of penalties or taxes shall be promptly presented to the Commissioner of the District of Columbia (provided for in Part III of this reorganization plan) for his approval or disapproval.

(b) If the Commissioner approves an action of the Council presented to him under subsection (a) of this section, that action shall become effective immediately or at such later time as may be specified in the action of the Council.

(c) If the Commissioner neither approves nor disapproves an action of the Council before the expiration of the first period of ten calendar days following the date on which the action is presented to him by the Council, the action of the Council shall become effective without the approval of the Commissioner upon the expiration of the ten-day period or at such later time as may be specified in the action of the Council.

(d) Where the Commissioner disapproves an action of the Council before the expiration of the first period of ten calendar days following the date on which the action is presented to him by the Council he shall return the action to the Council before such expiration together with a statement of the reasons for his disapproval. No action so returned shall become effective, except that such an action shall become effective if the Council re-adopts the action by a three-fourths vote of the Council members present and voting within thirty days next following the return of the action to the Council. Any action which becomes effective under this subsection shall be effective upon the re-adoption thereof by the Council or upon such later date as may be specified in the action of the Council.

(e) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under the foregoing subsections of section 406.

PART V. MISCELLANEOUS PROVISIONS

SEC. 501. *Status of certain agencies.* (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia, and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- (1) Board of Education (including the public school system)
- (2) Board of Library Trustees (including the public libraries)
- (3) Recreation Board
- (4) Public Service Commission
- (5) Zoning Commission
- (6) Zoning Advisory Council
- (7) Board of Zoning Adjustment
- (8) Office of the Recorder of Deeds
- (9) Armory Board

SEC. 502. *Incidental transfers.* (a) The personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the offices of the Board of Commissioners of the District of Columbia or in connection with the offices of the commissioners composing that Board shall be transferred as follows at such time or times as the Director of the Bureau of the Budget shall direct:

(1) So much thereof as the Director of the Bureau of the Budget shall determine to relate primarily to functions transferred to the District of Columbia Council by the provisions of this reorganization plan shall be transferred to that Council.

(2) All other thereof shall be transferred to the Commissioner of the District of Columbia.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Unless and until other provision is made in pursuance of section 304 of this reorganization plan or by law, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds which are now under the jurisdiction of the Board of Commissioners of the District of Columbia and are not affected by the provisions of subsection (a) of this section shall continue to be attached to or available for the several agencies of the Corporation.

SEC. 503. *Abolitions.* (a) Without prejudice to the continuation of the Corporation, there is hereby abolished the Board of Commissioners of the District of Columbia.

(b) The abolition effected by subsection (a) of this section includes the abolition of the office held by an officer of the Corps of Engineers of the United States Army as the Engineer Commissioner of the District of Columbia (10 U.S.C. 3534(a); D.C. Code, sec. 1-201) and the two other offices of Commissioner of the District of Columbia, but nothing in this reorganization plan shall preclude the detail by the President of not more than three officers assigned to the Corps of Engineers to assist the Commissioner of the District of Columbia in discharging his duties (10 U.S.C. 3534(b); D.C. Code, sec. 1-212).

(c) The joint board authorized and created by section 6(e) of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40-603(e)), together with its functions, is hereby abolished.

(d) The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the affairs of (1) the Board

of Commissioners of the District of Columbia, and (2) the joint board on traffic.

SEC. 504. *Effective dates.* (a) Except as otherwise provided in subsection (b) of this section, the provisions of this reorganization plan shall take effect on the date determined under section 906(a) of title 5 of the United States Code.

(b) Part IV and sections 501, 502, and 503 of this reorganization plan shall take effect when for the first time there are in office under this reorganization plan both (1) the Commissioner provided for in Part III hereof, and (2) not less than six members of the Council provided for in Part II hereof or on such later date as may be specified by the President of the United States.

¹ Section 7(b), act Oct. 22, 1968. Pub. L. 90-623, provided: "Paragraphs (115), (427), (428) and (429) of section 402 of Reorganization Plan No. 3 of 1967 have no further effect." The effect of those paragraphs are reflected in the amendments of sections 5352, 5353, 5527(b) and 6324(b) (1) of title 5, U.S. Code, made by section 1 of the above described Public Law.

LETTER OF TRANSMITTAL

To the Congress of the United States:

I am transmitting Reorganization Plan No. 3 of 1967 to provide a better government for the citizens of the Nation's Capital.

The explosive growth of the District of Columbia challenges the city on every front—from schools and hospitals, courts and police, to housing and transportation, recreation and job opportunities. If the District is to meet these tests and fulfill the needs of its citizens, it must, as I said in my message on the National Capital, "have the most responsive and efficient government we are capable of providing."

The plan I submit today is more than a matter of routine reorganization. Its vital purpose is to bring Twentieth Century government to the Capital of this Nation: to strengthen and modernize the government of the District of Columbia; to make it as efficient and effective as possible.

The present form of District government was designed almost a century ago for a community of 150,000 people. The District government then employed less than 500 persons and administered a budget of less than four million dollars.

Today Washington has a population of 800,000. It is the center of the country's fastest growing metropolitan area with a population of 2.5 million. The District's Government now employs some 30,000 people and the proposed 1968 budget is more than half a billion dollars.

The machinery designed more than 90 years ago to govern a small community is now obsolete. The commission form of government—unorthodox when the Congress accepted it as a temporary measure in 1874—provides neither effective nor efficient government for the Nation's Capital. That form of government has long since been abandoned by the few cities which adopted it around the turn of the century. Today none of the Nation's 27 largest cities and only two of the country's 47 cities with populations exceeding 300,000 have a government of divided authority.

The District of Columbia is governed by three Commissioners. Each Commissioner is the chief executive—the mayor—but for only a part of the government. Yet, the problems of the District of Columbia, like those of any major city, cannot be neatly broken into three parts. Any effort to control crime, for example, cuts across virtually every function of government—from police and corrections to housing, education, health and employment. An effective attack on the problem requires action by two or more Commissioners and the Departments for which they are separately responsible—a time-consuming and often costly process.

The District has been fortunate in the caliber and dedication of the men who have served as Commissioners, but it can no longer afford divided executive authority. Its government must be able to respond promptly and effectively to new demands and new conditions. This requires clear-cut executive authority and flexible government ma-

chinery—not divided authority which too often results in prolonged negotiations and inaction.

The problem of divided executive authority in the District is aggravated by the additional non-executive responsibilities now borne by the Commissioners. As a member of the Board of Commissioners, each must now make rules and regulations on matters with which he is not otherwise concerned as an executive. Some of these quasi-legislative responsibilities—such as police regulations and property taxation—are of great importance to the city. Many—such as the naming of streets and the labeling of potato packages—are merely time-consuming. None should require a substantial portion of the time of the chief executive of a major city.

The reorganization plan I propose would remedy these deficiencies in the present form of government. It would:

—Unify executive and administrative authority.

—Eliminate competing and sometimes conflicting assignments of responsibility.

—Provide for the informed exercise of quasi-legislative functions through a Council which would be bipartisan and representative of the community.

—Permit the single Commissioner to organize the District government to provide effective day-to-day administration.

Under the plan, subject to Senate confirmation, the President would appoint a single Commissioner as chief executive and a bipartisan Council of nine members. The Commissioner would serve a four-year term, corresponding to that of the President. Council members would serve three-year terms, with three members to be appointed each year. The staggered terms would insure continuity of experience on the Council.

The plan would abolish the present Board of Commissioners of the District of Columbia. Its powers and responsibilities would be apportioned between the single Commissioner and the Council.

The Commissioner would be assigned the executive functions now vested in the Board of Commissioners. He would be given responsibility and authority to organize and manage the District government, to administer its programs and to prepare its budget. The plan also provides for an Assistant to the Commissioner to help him carry out these responsibilities.

The Council would be assigned the quasi-legislative functions now performed by the Board of Commissioners. The plan describes more than 430 functions which would be transferred to the Council. These include major responsibilities such as the approval of boundaries and plans for urban renewal, establishment of rules governing the licensing of professions, and setting of rates for property taxation. The Council would also be empowered to review and revise the Commissioner's budget before submission to the President.

Since the plan was announced in my Message on the Nation's Capital, we have been working to strengthen the Office of Commissioner and the Council. Out of this process of refinement four key changes have emerged, and have been incorporated into the plan.

First, the plan would authorize the Commissioner to veto actions of the Council with which he disagrees. The Council, in turn, could override such a veto by a three-fourths vote of its members. This provides due recognition for the responsibilities of the chief executive, while at the same time preserving the right of the Council to act on matters of overriding importance.

Second, the terms of Council members would be set at three years instead of two. The reduction in turnover and increase in experience would add strength to the Council.

Third, the salaries of the Chairman, Vice Chairman and Council members would be increased to reflect their important responsibilities.

Finally, the plan recognizes that the machinery of the District's government, no matter how modern, cannot realize its highest purpose unless it is infused with the most experienced, informed and able leadership.

The 800,000 citizens of the District of Columbia deserve nothing less than such leadership, not only as a matter of fundamental right but because the District occupies a special and central role in the affairs of the Nation.

The best talent available must be found for the key posts of Commissioner and Assistant to the Commissioner. The Commissioner is the chief executive of the District

of Columbia. The Assistant to the Commissioner will be his chief aide, his deputy, and will perform such duties as the Commissioner may prescribe.

In the search for leadership necessary in these crucial posts, the President and the Congress must balance the need to draw from the best talent in the Nation with the need for local experience and local involvement that are such valuable assets to enlightened municipal government. The plan therefore provides for the Presidential appointment of both these men, subject to Senate confirmation, with the requirement that at least one of them be a resident of the District for three years prior to appointment.

We would be indifferent to the cause of good government if the search and selection of the Commissioner and his Assistant were confined only to those who reside within the geographic boundaries of the District. This plan does not take that course. It provides a wide range of choice—opening the field not only to those who reside in the District, but to those who live in other parts of the Nation. At the same time, the plan assures that local experience will be well represented in the highest councils of the District Government.

Not only must either of the top executives positions be filled with a District resident, but each member of the nine-man Council must have been a resident of the District for at least three years prior to appointment.

Moreover, in selecting the Commissioner, I will look first to the residents of the District and I hope that he can be found here.

Of all the benefits of the plan, one stands out in particular—the strong leadership it provides as the cornerstone of support for any effective attack against crime. With that leadership and with the continued commitment and devotion of its police, the District can move with a greater sense of sureness and purpose against the spectre of crime that haunts the streets and shops of the Nation's Capital.

Of all the duties of the new single Commissioner none will be more important than his leadership in a renewed community effort to stem the rising tide of crime in the District.

The reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United States Code. At my direction, it has been discussed with each member of the interested Committees of Congress or with their Staff Assistants. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that it is necessary to include in the plan, by reason of the reorganization made, provisions for the appointment and compensation of the new officers specified in sections 201, 203 and 301–303 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for officers in the executive branch of the Government having similar responsibilities.

The functions which would be abolished by the provisions of section 503(c) of the reorganization plan are provided for in subsection (e) of Section 6 of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40–603(e)).

The plan would not impair the corporate status of the District of Columbia government. Nor would it in any way detract from the powers which the Congress exercises with respect to the District.

This reorganization plan would provide improved management of the municipal responsibilities vested by Congress in the government of the District of Columbia. It would bring savings to the District taxpayers and the Federal Government, although overall costs will not be less because of the increasing scale and complexity of municipal government. The precise amount of such savings cannot be itemized at this time.

The proposed reorganization is in no way a substitute for home rule. As I stated in my Message on the Nation's Capital, the plan "will give the District a better organized and more efficient government . . . but only home rule will provide the District with a democratic government—of, by and for its citizens."

I remain convinced more strongly than ever that Home Rule is still the truest course. We must continue to work toward that day—when the citizens of the District will

have the right to frame their own laws, manage their own affairs, and choose their own leaders. Only then can we redeem that historic pledge to give the District of Columbia full membership in the American Union.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 1, 1967.

REORGANIZATION PLAN NO. 2 OF 1968

(33 F.R. 6965, F.R. Doc. 68–5562; Filed, May 8, 1968; 8:49 a.m.)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 26, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code. The plan became effective at the close of June 30, 1968.

URBAN MASS TRANSPORTATION

SECTION 1. *Transfer of Functions.*—(a) There are hereby transferred to the Secretary of Transportation:

(1) The functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under the Urban Mass Transportation Act of 1964 (78 Stat. 302; 49 U.S.C. 1601–1611), except that there is reserved to the Secretary of Housing and Urban Development (i) the authority to make grants for or undertake such projects or activities under sections 6(a), 9, and 11 of that Act (49 U.S.C. 1605(a); 1607a; 1607c) as primarily concern the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, and (ii) so much of the functions under sections 3, 4, and 5 of the Act (49 U.S.C. 1602–1604) as will enable the Secretary of Housing and Urban Development (A) to advise and assist the Secretary of Transportation in making findings and determinations under clause (1) of section 3(c), the first sentence of section 4(a), and clause (1) of section 5 of the Act, and (B) to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 4(a) of the Act.

(2) Other functions of the Secretary of Housing and Urban Development, and functions of the Department of Housing and Urban Development or of any agency or officer thereof, all to the extent that they are incidental to or necessary for the performance of the functions transferred by section 1(a)(1) of this reorganization plan, including, to such extent, the functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under (i) title II of the Housing Amendments of 1955 (69 Stat. 642; 42 U.S.C. 1491–1497), insofar as functions thereunder involve assistance specifically authorized for mass transportation facilities or equipment, and (ii) title IV of the Housing and Urban Development Act of 1965 (79 Stat. 485; 42 U.S.C. 3071–3074).

(3) The functions of the Department of Housing and Urban Development under section 3(b) of the Act of November 6, 1966 (P.L. 89–774; 80 Stat. 1352; 40 U.S.C. 672(b)).

(b) Any reference in this reorganization plan to any provision of law shall be deemed to include, as may be appropriate, reference thereto as amended.

SEC. 2. *Delegation.*—The Secretary of Transportation may delegate any of the functions transferred to him by this reorganization plan to such officers and employees of the Department of Transportation as he designates, and may authorize successive redelegations of such functions.

SEC. 3. *Urban Mass Transportation Administration.*—(a) There is hereby established within the Department of Transportation an Urban Mass Transportation Administration.

(b) The Urban Mass Transportation Administration shall be headed by an Urban Mass Transportation Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Administrator shall perform such duties as the Secretary of Transportation shall prescribe and shall report directly to the Secretary.

SEC. 4. *Interim Administrator.*—The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the executive branch of the government to act as Urban Mass Transportation Administrator until the office of Administrator is for the first time filled pursuant to the provisions of section 3(b) of this reorganization plan or by recess appointment, as the case may be. The person so designated shall be entitled to the compensation attached to the position he regularly holds.

SEC. 5. *Incidental Transfers.*—(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Transportation by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred from the Department of Housing and Urban Development to the Department of Transportation at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 6. *Effective Date.*—The provisions of this reorganization plan shall take effect at the close of June 30 1968, or at the time determined under the provisions of section 906(a) of title 5 of the United States Code, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As long as he has lived in cities, man has struggled with the problem of urban transportation. But:

- Never before have these problems affected so many of our citizens.
- Never before has transportation been so important to the development of our urban centers.
- Never before have residents of urban areas faced a clearer choice concerning urban transportation—shall it dominate and restrict enjoyment of all the values of urban living, or shall it be shaped to bring convenience and efficiency to our citizens in urban areas.

How America and its cities solve the transportation problem depends largely on our two newest Federal Departments—the Department of Transportation and the Department of Housing and Urban Development:

- The Department of Housing and Urban Development is responsible for the character of all urban development.
- The Department of Transportation is concerned specifically with all the modes of transportation and their efficient interrelationship.

At present, responsibility for program assistance for urban highways and urban airports, and urban mass transportation is divided between the Department of Transportation and the Department of Housing and Urban Development. As a result:

- Federal coordination of transportation systems assistance is more difficult than it need be.
- Communities which have measured their own needs and developed comprehensive transportation proposals must deal with at least two federal agencies to carry out their programs.

To combine efficiently the facilities and services necessary for our urban centers and to improve transportation within our cities, State and local government agencies should be able to look to a single federal agency for program assistance and support. The large future cost of transportation facilities and services to the Federal Government, to State and local governments, and to the transportation industry makes side investments and efficient transportation systems essential.

An urban transportation system must:

- combine a basic system of efficient, responsive mass transit with all other forms and systems of urban, regional, and inter-city transportation;
- conform to and support balanced urban development.

In this, my second reorganization plan of 1968, I ask the Congress to transfer urban mass transportation programs to the Secretary of Transportation and to establish an

Urban Mass Transportation Administration within the Department of Transportation to strengthen the organizational capacity of the Federal Government to achieve these objectives.

The plan transfers to and unifies in a new Urban Mass Transportation Administration in the Department of Transportation those functions which involve urban mass transportation project assistance and related research and development activities. Because urban research and planning and transportation research and planning are closely related, however, the plan provides that the Department of Housing and Urban Development perform an important role in connection with transportation research and planning insofar as they have significant impact on urban development.

We expect the Department of Transportation to provide leadership in transportation policy and assistance. The Department of Housing and Urban Development will provide leadership in comprehensive planning at the local level that includes transportation planning and relates it to broader urban development objectives.

The transfer of urban mass transportation programs will not diminish the overall responsibilities of the Department of Housing and Urban Development with respect to our cities. Rather, adequate authority is reserved to that Department to enable it to join with the Department of Transportation to assure that urban transportation develops as an integral component of the broader development of growing urban areas.

The new Urban Mass Transportation Administration in the Department of Transportation, working with other elements of the Department, will consolidate and focus our efforts to develop and employ the most modern transportation technology in the solution of the transportation problems of our cities.

The reorganization plan provides for an Administrator at the head of the Administration who would be appointed by the President, by and with the advice and consent of the Senate. The Administrator would report directly to the Secretary of Transportation and take his place in the Department with the heads of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration and the Coast Guard.

I have found, after investigation, that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that it is necessary to include in the accompanying plan, by reason of these reorganizations, provisions for the appointment and compensation of the new officer specified in section 3(b) of the plan. The rate of compensation fixed for this officer is comparable to those fixed for officers in the Executive Branch of the Government having similar responsibilities.

The reorganizations included in this plan will provide more effective management of transportation programs. It is not feasible to itemize the reduction in expenditures which the plan will achieve, but I have no doubt that this reorganization will preserve and strengthen overall comprehensive planning for developing urban areas while simultaneously insuring more efficient transportation systems for our cities than would otherwise have occurred.

I strongly urge that the Congress allow the reorganization plan to become effective.

REORGANIZATION PLAN NO. 3 OF 1968

(33 F.R. 7747, F.R. Doc. 68-6385; Filed May 27, 1968; 9:25 a.m.)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code. The plan became effective at the close of June 30, 1968.

DISTRICT OF COLUMBIA RECREATION FUNCTIONS

SECTION 1. *Definitions.* (a) As used in this reorganization plan, the term "the Recreation Board" means the District of Columbia Recreation Board provided for in D.C. Code, sec. 8-201 and in other law.

(b) References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan.

SEC. 2. *Transfer of functions to Commissioner.* There are hereby transferred to the Commissioner of the District of Columbia all functions of the Recreation Board or of its chairman and members and all functions of the Superintendent of Recreation (appointed pursuant to D.C. Code, sec. 8-209).

SEC. 3. *Delegations.* The functions transferred by the provisions of section 2 hereof shall be subject to the provisions of section 305 of Reorganization Plan No. 3 of 1967 (32 F.R. 11671).

SEC. 4. *Incidental transfers.* (a) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions of the Recreation Board or the Superintendent of Recreation are hereby transferred to the Commissioner of the District of Columbia.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in subsection (a) of this section shall be carried out in such manner as he may direct and by such agencies as he shall designate.

SEC. 5. *Abolition.* The Recreation Board, together with the position of Superintendent of Recreation, is hereby abolished. The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the outstanding affairs of the Recreation Board and the Superintendent of Recreation.

SEC. 6. *Effective date.* The provisions of this reorganization plan shall take effect at the close of June 30, 1968 or on the date determined under section 906(a) of title 5 of the United States Code, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

In the past few years Congress and the President have pledged to make the Nation's Capital a model of excellence for America: in government, in housing, in city planning, in law enforcement, in transportation.

But the quality of any city is not just a matter of efficiency and public order. If it is to be truly great, the city must be lively and inviting—a place of beauty and pleasure.

The city's life is lived not only in its buildings, but in its pools, playgrounds and recreation centers, in the places where the young gather to find excitement and delight, where the old come to find relaxation, fresh air, companionship.

In Washington, recreation is a vital element of the city's school enrichment activities, its model city project and its summer programs.

But the D.C. Recreation Department is not an integral part of the District Government. With its six-member independent board, the autonomy of the Department prevents the D.C. Commissioner from providing policy supervision to the city's recreation activities and from relating them to other community service programs—in health, education, child care, and conservation.

There is no reason to distinguish between recreation and other community service programs now vested in the Commissioner.

Accordingly, I am today submitting to the Congress Reorganization Plan No. 3 of 1968. This plan brings recreation programs under the authority of the D.C. Commissioner. It enables the new City Government to make recreation an integral part of its strategy to bring more and better community services to the people who live in the city.

The Plan achieves these objectives by abolishing the present Recreation Board and the Office of the Superintendent of Recreation. It transfers their functions to the D.C. Commissioner.

The accompanying reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United

States Code. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

Closer coordination of recreation with other municipal improvement programs of the District Government and the improved efficiency of recreation management will produce a higher return on the taxpayer's investment on recreation programs, though the amount of savings cannot be estimated at this time.

I urge the Congress to permit this reorganization plan to take effect.

THE WHITE HOUSE, Mar. 13, 1968.

REORGANIZATION PLAN NO. 4 OF 1968

(33 F.R. 7749, F.R. Doc. 68-6386; Filed, May 27, 1968; 9:25 a.m.)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code. The plan became effective May 23, 1968.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

SECTION 1. *Appointments.* (a) The functions of the President of the United States with respect to appointing certain members of the Board of Directors of the District of Columbia Redevelopment Land Agency (D.C. Code, sec. 5-703) are hereby transferred to the Commissioner of the District of Columbia.

(b) Nothing in this reorganization plan shall be deemed to terminate the tenure of any member of the Board of Directors of the District of Columbia Redevelopment Land Agency now in office.

SEC. 2. *Relationship of Board of Directors and Commissioner.* (a) There are transferred from the Board of Directors of the District of Columbia Redevelopment Land Agency to the Commissioner of the District of Columbia the functions of adopting, prescribing, amending and repealing bylaws, rules, and regulations for the exercise of the powers of the Board under D.C. Code, secs. 5-701 to 5-719 or governing the manner in which its business may be conducted (D.C. Code, sec. 5-703(b)).

(b) Any part of the functions transferred by this section may be delegated by the Commissioner to the Board.

SEC. 3. *References to District of Columbia Code.* References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Urban Renewal is a vital weapon in the Nation's attack on urban blight and physical decay. In the firm hands of a local executive determined to improve the face of his city, it is a powerful tool of reform.

In the District of Columbia, urban renewal is managed by a Federal Agency, the D.C. Redevelopment Land Agency, headed by an independent five-man Board of Directors. Although the District Government pays the entire local share of the costs of urban renewal and although the Commissioner of the District of Columbia appoints three of the five members of the RLA Board, the Agency need not follow the Commissioner's leadership or administrative direction.

To strengthen the D.C. Commissioner's authority to initiate and guide the administration of urban renewal, I am today transmitting to the Congress Reorganization Plan No. 4 of 1968. This plan:

- gives the D.C. Commissioner the authority to appoint all five members of the RLA Board, by transferring to him the appointment function now vested in the President;
- transfers to him the authority to prescribe the rules and regulations governing the conduct of business by RLA. This function is now vested in the Board of Directors.

Urban Renewal involves slum clearance, demolition, the relocation of families, the provision of new housing,

the stimulation of rehabilitation and new employment. Throughout the Nation, it is clear that authority and leadership by the local chief executive is essential to weld together the full range of municipal functions and community service programs to change conditions in city slums.

In our Capital City the hopes for a balanced New Town and new housing development on the Fort Lincoln site in Northeast Washington, the rebuilding of the Shaw neighborhood, and a successful Model Cities program hinge on the leadership of the D.C. Commissioner. Members of the Congress have repeatedly stressed the need to establish the Commissioner's effective control of all functions essential to local redevelopment. The attached plan takes a major step toward that objective.

The plan does not alter the corporate status of the Redevelopment Land Agency or any of the authorities now vested by law in the Agency.

The accompanying reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United States Code. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

There are no direct savings deriving from this plan. However, it will improve the management of programs aimed at reviving the deteriorated social, economic, and physical structure of this city, our National Capital. The benefits and savings from a more successful attack on these problems cannot be estimated in advance, but their reality cannot be denied.

To achieve our goal of a model Capital, I therefore urge the Congress to permit this reorganization plan to take effect.

THE WHITE HOUSE, *March 13, 1968.*

REORGANIZATION ORDER NO. 3.—DEPARTMENT OF
GENERAL ADMINISTRATION
(Aug. 28, 1952, as amended)

Part V of Organization Order No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 8.—MANAGEMENT OFFICE
(Sept. 25, 1952, as amended)

Part V of Organization Order No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 18.—ADMINISTRATIVE
SERVICES OFFICES
(Oct. 23, 1952, as amended)

Part V of Organization Order No. 3, dated Dec. 13, 1967, Commissioner's Order No. 67-24, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 19.—INTERNAL AUDIT
OFFICE
(Nov. 1952 as amended)

Part V of Organization Order No. 3, dated Dec. 13, 1967, Commissioner's Order No. 67-24, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 21.—PERSONNEL OFFICE
(Nov. 20, 1952, as amended)

Part V of Organization Order No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 24.—BUDGET OFFICE
(Dec. 30, 1952, as amended)

Part V of Organization Order No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 29.—PROCUREMENT OFFICE
(Apr. 14, 1953, as amended)

Part V of Organization Order No. 3, dated Dec. 13, 1967, Commissioner's Order No. 67-24, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 31.—POLICE AND FIRE-
MEN'S RETIREMENT AND POLICE BOARD
(Apr. 30, 1953, as amended)

Part IV of Organization Order No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8. Org. Ord. No. 12, dated Aug. 6, 1968, redesignated this Reorg. Ord. as Org. Ord. No. 12 and amended to read as set out in Org. Ord. No. 12.

REORGANIZATION ORDER NO. 33.—BOARD OF PAROLE
(May 28, 1953, as amended)

This order has been amended by and redesignated as Org. Ord. No. 6, dated Dec. 26, 1967, Commissioner's Order No. 67-95, set out below in this appendix. See also Part IV of Org. Ord. No. 8, dated Apr. 18, 1968.

REORGANIZATION ORDER NO. 36.—MINIMUM WAGE AND
INDUSTRIAL SAFETY BOARD

(Reorg. Ord. No. 36, C.O. 302,853/14, June 16, 1953, as amended Sept. 20, 1956, July 14, 1960, Sept. 20, 1960, Jan. 7, 1966, and Feb. 7, 1967.)

* * * * *

PART VII

Minimum wages and overtime compensation.—The Board shall administer the act approved September 19, 1918 (Title 36, Chapter 4, D.C. Code), as amended, establishing minimum wages and overtime compensation for employees in the District of Columbia.

PART VIII

Effective date.—This Order shall become effective on and after June 16, 1953.

REORGANIZATION ORDER NO. 38.—FIRE DEPARTMENT
(June 18, 1953, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

REORGANIZATION ORDER NO. 39.—FIRE TRIAL BOARDS
(June 18, 1958, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

REORGANIZATION ORDER NO. 40.—EXECUTIVE OFFICE
OF THE BOARD OF COMMISSIONERS
(June 23, 1953)

Part V of Organization Order No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order and abolished the department, offices and officers established thereunder.

REORGANIZATION ORDER NO. 42.—DEPARTMENT OF
BUILDINGS AND GROUNDS

(Reorganization Ord. No. 42, L.S. 4159-B, June 23, 1963, as amended Aug. 11, 1954, Nov. 23, 1954, Jan. 31, 1956, Apr. 24, 1956, Feb. 7, 1961, Oct. 17, 1961, Jan. 3, 1963, June 3, 1965, and Jan. 14, 1969.)

* * * * *

PART II

* * * * *

B. * * *

7. Provides guidelines and selectively delegates authority to Department and Office Heads to make non-structural repairs to District Government owned buildings under their control, provided proper licenses and permits are obtained in advance from the Department of Licenses and Inspections.

REORGANIZATION ORDER NO. 43.—DEPARTMENT OF INSURANCE

(Reorganization Ord. No. 43, G. F. No. 36-000, June 23, 1953, as amended Aug. 28, 1962, Mar. 5, 1965, and Aug. 12, 1968.)

PART VIII

A. There is delegated to the Superintendent of Insurance the function, now vested in the Board of Commissioners by the Act of May 17, 1932 (47 Stat. 158, ch. 189; § 35-204, D.C. Code, 1961 ed. [now 1967 ed.]), of granting or denying to insurance companies permission to remove from the District of Columbia the principal office, books, records, and files of such companies.

2. The function delegated by this Part may not be redelegated to other officials or employees of the Department of Insurance, and is subject to withdrawal or modification at any time.

B. There are delegated to the Superintendent of Insurance the functions vested in the Commissioner of the District of Columbia by the District of Columbia Insurance Placement Act (Title XII, Housing and Urban Development Act of 1968, approved August 1, 1968; Public Law 90-448).

The Superintendent of Insurance is hereby authorized to redelegate all or part of such functions as, in his judgment, may be necessary in the interests of efficient administration.

REORGANIZATION ORDER NO. 47.—BOARD OF POLICE AND FIRE SURGEONS
(June 26, 1953, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

REORGANIZATION ORDER NO. 48.—POLICE TRIAL AND REVIEW BOARDS
(June 26, 1953, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this order to the extent the same is inconsistent with Org. Ord. No. 8.

REORGANIZATION ORDER NO. 49.—OFFICE OF CIVIL DEFENSE
(June 26, 1953, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

REORGANIZATION ORDER NO. 50.—OFFICE OF THE CORPORATION COUNSEL
(Reorg. Ord. No. 50, L.S. 4240-B, June 26, 1953, as amended June 6, 1955, Feb. 10, 1956, Aug. 30, 1956, Oct. 18, 1956, Feb. 4, 1958, Mar. 13, 1958, June 7, 1960, Nov. 3, 1967, Dec. 18, 1967, and Oct. 28, 1968.)

PART II

Organization.—The Office of the Corporation Counsel shall be comprised of the following organizational components, responsible for the performance of the functions outlined:

A. Office of the Corporation Counsel and Principal Assistant Corporation Counsel:

(a) Corporation Counsel and Principal Assistant Corporation Counsel.—Is attorney for and chief law officer of the District of Columbia Government and has charge of all of its law business. Through his professional staff conducts prosecution of all cases, including criminal, instituted by it and defense of all suits against the District of Columbia, its officers, employees, and agents arising out of performance of official duties.

Furnishes legal advice to the Commissioner and District of Columbia Council and the several departments and agencies of the District of Columbia and upon request of said Commissioner and District of Columbia Council renders written opinions to them. Such opinions, in the absence of specific action by the Commissioner or Council to the contrary, or until overruled by controlling court decision, shall be the guiding statement of law, to

be followed by all District officers and employees in the performance of their official duties.

Is statutory General Counsel of the Public Utilities Commission [Public Service Commission].

Supervises the staff of the Office of the Corporation Counsel and the administrative services necessary for the internal operations of the Office.

Is a member and Chairman of the Contract Appeals Board and performs this function through an Assistant Corporation Counsel designated by him.

Is designated by the D.C. Armory Board as its general counsel and, with the approval of the Board of Commissioners, serves in that capacity without additional compensation.

I. * * * [third par.]

Performs all legal work involved in representing the interests of the District of Columbia in probate and escheat cases. Applies for administration and acts as administrator on behalf of the District of Columbia in any estate in which the assets consist solely of personal property valued at more than \$500.00, but less than \$2,500.00, and in which the District of Columbia is the principal creditor of said estate by reason of services rendered or expenditures made by the District of Columbia. All funds so collected shall be deposited into Miscellaneous Trust Fund Account (by individual estate), to be thereafter disbursed by the Disbursing Officer, Finance Office, upon direction of the Administrator; provided that such disbursements, exclusive of administration expenses, shall be in accordance with the final order of the United States District Court for the District of Columbia.

PART III

A. * * *

1. Instituted against the District of Columbia up to and including \$5,000, or, if approved by the Assistant to the Commissioner, up to and including \$10,000.

2. Instituted on behalf of the District of Columbia by reducing the amount of such claim or suit by an amount not exceeding \$5,000, or, if approved by the Assistant to the Commissioner, in an amount not exceeding \$10,000.

REORGANIZATION ORDER NO. 55.—DEPARTMENT OF LICENSES AND INSPECTIONS

(Reorganization Ord. No. 55, L.S. 4263-B, June 30, 1953, as amended Aug. 13, 1953, Dec. 17, 1953, June 30, 1954, Oct. 26, 1954, Aug. 11, 1955, Jan. 31, 1956, July 10, 1956, Oct. 2, 1956, Oct. 16, 1956, June 13, 1957, Nov. 27, 1957, July 22, 1958, June 1, 1960, Feb. 21, 1961, Nov. 7, 1961, Dec. 4, 1962, May 12, 1964, June 17, 1965, Mar. 16, 1967, and Feb. 28, 1969.)

PART II

Purpose.—The Department of Licenses and Inspections is established for the purpose of: administering the laws enacted by Congress and the regulations for the control of construction, zoning and occupancy use, erection, maintenance and repair, inspection and removal of all buildings and their appurtenances, and electrical and mechanical equipment within the District of Columbia, excepting public buildings or premises under the control of the Federal Government; enforcing the Consumer Affairs Regulations (effective July 1, 1969); administering the D.C. Standard Weights and Measures Law; supervising and controlling the municipal markets and collecting annual revenue for rents and space and for wharfage at the Municipal Fish Wharf; administering the License Act of 1932, as amended, and regulations promulgated thereunder requiring licenses of certain businesses and callings in the District of Columbia; administering the acts requiring licenses for Cooperative Associations, Credit Unions, Pawnbrokers, and Loan Brokers; administering such portions of the Acts as require licenses for: Cigarette Vending Machine Operators and Retail and Wholesale Cigarette dealers; administering the portions of the Act of July 5, 1945 which require the payment of a dog tax and the issuance of a dog tag; administering the provisions relating to the licensing of peddlers and the granting of permits for the use of public space contained in the act

of August 6, 1956, known as the "Presidential Inaugural Ceremonies Act;" administering and interpreting all laws and regulations governing housing in the District of Columbia; and proposing to the Commissioner appropriate provisions for codes and regulations relating to such housing: provided, however, that the Department of Public Health shall fully collaborate in the development and presentation to the Commissioner of such proposed provisions to the extent that they affect the public health of the community and its individual members.

PART III

* * * * *

B. Office of Administration.

* * * * *

8. Maintains the Department's Central Files. Such files contain records pertaining to Permit and Certificate issuance and inspection reports of completed work. Is responsible for developing procedures and systems to include other categories of Departmental records not presently serviced by the Central File system.

* * * * *

E. License and Permit Division.

1. Processes and issues licenses, permits, and certificates for: the operation of businesses (including those as retail sellers or sales finance companies as specified in the Consumer Affairs Regulations (effective July 1, 1969)); building and certain other types of construction and alteration or repair; building use; and other miscellaneous matters requiring a license, permit, or certificate.
2. Provides advice and assistance to the public as to the requirements for license, permit, and certificate issuance, the preparation of applications, and the explanation of regulations governing such matters.
3. Serves as the central point from which the public requests licenses, permits, and certificates; receives, reviews, sorts, routes, and controls all such applications during their processing.
4. Normally notifies applicants of approval or disapproval of their applications for licenses, permits, and certificates issued by the Department. Upon receipt of recommendations of approval from the Housing Division, the Inspection Division, Zoning Division, the Fire Department, the Department of Public Health, and other departments, as appropriate, issues licenses, permits, certificates, or other notices of compliance with applicable regulations. Upon receipts of recommendations of disapproval from the Divisions of the Department of Licenses and Inspections and other departments, examines data received and requests supplemental data if necessary for complete clarity. Prepares consolidated list of deficiencies and remedial actions required, and furnishes copy to applicant with advice that applicant, if he desires to discuss the matter or secure further information, may meet for such purpose with D.C. Government officials concerned; if applicant desires such meeting, refers him to the officials involved or arranges meeting with such officials, as appropriate. Upon receipt of notice from agencies involved in such meetings as to whether they desire to revise their findings or recommendations as a result of the meeting, advises applicant of such determinations and, in non-approval cases, notifies applicant in writing that if deficiencies are not remedied as required, license, permit, certificate, or other form of approval will be denied; except that where recommendations made by any of the recommending agencies (except the Department of Public Health in connection with inspections for which that Department is responsible), in the light of the facts alleged by the recommending agency, may appear to be inconsistent with the language and intent of the applicable laws and regulations, refers such recommendations together with all pertinent details to the Office of the Director for review and determination. In inspectional matters for which the Department of Public Health is responsible, as outlined in Reorganization Order No. 57, as amended, the action taken shall be the same as that recommended by the Department of Public Health. All determinations relative to these matters may be appealed to the Board of Appeals and Review, and a statement to this effect shall be incorporated in all notices of unfavorable action sent to members of the public.

- In cases in which renewal or transfer of licenses requires exercise of discretion and in which licenses were in effect for the year immediately preceding, may issue or transfer such licenses forthwith.
- In case of renewal actions which are purely ministerial in nature, renews the permit or certificate without referral to other units of the Department or outside the Department.
- When warranted, recommends to the Director the denial, revocation, or suspension of a Pawnbroker's license.
5. Recommends to the Board of Appeals and Review suspension or revocation, for good and sufficient cause, of licenses, permits, and certificates previously issued subject to such review as may be indicated by the Department Director.
6. In those instances in which an appeal is made to the Board of Appeals and Review, except where only a determination by the Department of Public Health is in question, the case will be reviewed by the Department Director or his designee before being submitted to the Board of Appeals and Review. Cases forwarded to the Board of Appeals and Review shall be fully documented so that the Board may be appraised of what has transpired prior to the appeals action, as well as the basis for the denial or proposed suspension or revocation of the license, permit, or certificate. Based upon the decision of the Board of Appeals and Review, performs the operating functions essential to denying, revoking, suspending, or restoring the license, permit, or certificate, as the case may be.
7. Inspects and controls the operations of loan companies, pawnbrokers, motor vehicle dealer sales contracts, and such other appropriate areas of business regulation as the Commissioners may prescribe.
8. Collaborates with the Office of the Collector of Taxes in developing and administering procedures relating to facilities for the collection of fees.
9. Investigates and takes necessary action to obtain compliance with the license, permit, and certificate laws and regulations (such as the Consumer Affairs Regulations (effective July 1, 1969)) enforced by this Department; furnishes expert services to other offices of the Department in non-compliance cases brought to Court; collaborates with the Office of the Corporation Counsel in representing the interests of the Department in legal matters; and provides expert testimony in court as required.
10. Acts as attorney-in-fact for licensed pawnbrokers for the purpose of receiving judicial and other processes and legal notices.
11. In the inspection and control of the operations of licensed pawnbrokers, the Chief of the License and Permit Division is authorized to require by subpoena the production of books, papers, and records and the attendance, and examination under oath of all persons whomsoever whose testimony he may require relative to the loans of business of any such licensee, and he shall possess the power vested in the Commissioners by the Act of July 1, 1902 (D.C. Code, 1951 ed. [now 1967 ed.], § 1-237) to administer oaths, and he and his designated representatives are authorized to have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under a pawnbroker's license.
12. Certifies on the District of Columbia motor vehicle operator's permit issued to an applicant for a parking lot attendant's license, in the space on such permit set aside for "restrictions", the number of the license issued such applicant and its expiration date.
13. Assists retail businesses or sales finance companies in devising their installment contract and other forms to comply with the Consumer Affairs Regulations (effective July 1, 1969).

* * * * *

G. Office of Consumer Affairs.

1. Conducts studies, investigations and research with respect to retail transactions involving consumer goods and services and retail installment contracts or instruments of security arising from retail installment transactions including collection of the debt or enforcement of the security interest arising from such contracts or instruments.

- 2. Conducts educational programs, collects and disseminates information with respect to retail transactions in the District of Columbia as described in Paragraph 1 above.
- 3. Advises with other District Government agencies, when appropriate to assure enforcement of all laws and regulations designed to provide adequate protection to consumers.
- 4. Advises, consults and cooperates with other governments in the Washington metropolitan area either directly or through the Council of Governments, and with other interested persons and groups, including business, civic, and citizen organizations regarding consumer affairs, as described in Paragraph 1 above.
- 5. Promotes and encourages "self-policing" by business, professional and trade groups. Encourages voluntary cooperation in compliance with all District of Columbia regulations involving retail transactions.
- 6. Evaluates effectiveness of existing regulatory measures of the District and Federal Governments in providing adequate protection to consumers, and recommends laws or regulations when deemed appropriate to assure adequate protection and recommends modifications in existing laws and regulations where less stringent measures would appear to be adequate.

REORGANIZATION ORDER NO. 59.—BOARDS AND COMMISSIONS

(Reorganization Ord. No. 59, L.S. 4266-B, June 30, 1953, as amended July 17, 1953, Sept. 15, 1953, Dec. 10, 1953, June 17, 1954, June 27, 1957, June 24, 1958, July 29, 1958, Aug. 25, 1959, Jan. 26, 1960, Aug. 9, 1960, Mar. 21, 1961, May 25, 1961, Sept. 12, 1961, Feb. 20, 1962, Feb. 12, 1963, Mar. 13, 1963, Apr. 16, 1963, Aug. 5, 1963, Sept. 19, 1963, Oct. 10, 1963, Oct. 17, 1963, Jan. 21, 1964, Nov. 5, 1964, Feb. 21, 1966, Mar. 8, 1966, May 24, 1966, June 14, 1966, Dec. 15, 1966, Jan. 24, 1967, and Dec. 12, 1968.)

PART V

C. Qualification requirements shall be determined and officers shall be chosen in accordance with the statutes and regulations applicable to the boards, commissions, and committee having the same or similar names prior to their abolition by the Board of Commissioners on June 30, 1953, except that any person shall be eligible for appointment upon the Board of Podiatry Examiners who is a citizen of the United States and who has been for five years next preceding his appointment in the active and reputable practice of podiatry in the District of Columbia, and except that any person shall be eligible for appointment upon the Board of Dental Examiners who is a citizen of the United States and who has been for five years next preceding his appointment, both a resident of the Washington Metropolitan Area, as defined in the National Capital Planning Act of 1952, as amended, and in the active and reputable practice of dentistry in the District of Columbia, and except that the Commissioners may, in their discretion, appoint the members to the Board of Barber Examiners as they determine is in the best interest of the District Government, either upon the recommendations of interested groups or individuals, or without such recommendations, and with the further exception that in making appointments of members of the Board of Podiatry Examiners the Commissioners shall not be restricted to nominations submitted to them or to the membership of any particular group or organization but shall appoint to said Board such persons as they determine will be in the best interests of the District of Columbia, and except that the Commissioners may, in their discretion, appoint the members to the Real Estate Commission as they determine is in the best interests of the District of Columbia. The Steam and Other Operating Engineers' Board shall be composed of three members, two of whom are practical engineers, neither of whom shall be in the employ of the United States or the District of Columbia, and the Boiler Inspector for the District of Columbia; and three alternates, two of whom shall be practical engineers, neither of whom shall be in the employ of the United

States or the District of Columbia, and the Assistant Chief, Smoke and Boiler Section, Department of Licenses and Inspections. The Commission on Licensure To Practice the Healing Art in the District of Columbia shall be composed of the President of the Board of Commissioners of the District of Columbia, the United States Commissioner of Education, the Corporation Counsel of the District of Columbia, the Superintendent of Public Schools of the District of Columbia, and the Director of Public Health of the District of Columbia, each ex officio.

The District of Columbia Board of Cosmetology shall be composed of six members appointed by the Board of Commissioners. Each member of the Board shall be at least twenty-five years of age, shall have had at least five years' practical experience in the practice of cosmetology, shall be a citizen of the United States and a resident of the District of Columbia and shall be in the active and reputable practice of cosmetology in the District of Columbia.

The statutory office of executive secretary of the Nurses' Examining Board is hereby abolished and the statutory duties of said office are hereby delegated to the Director. The Board of Dental Examiners shall be composed of five (5) members appointed by the Commissioner and five (5) alternate members. The alternate members shall be those five (5) persons who most recently served as regular members of the Board and whose terms have expired. The term of service of each alternate shall coincide with the term of the regular member whom he represents and as each regular member of the Board completes his term he shall automatically become an alternate member to his successor.

E. The Real Estate Commission of the District of Columbia shall be composed of four (4) members appointed by the Board of Commissioners. In addition thereto, the Finance Officer, D.C. (formerly the the Assessor, D.C.) or an official of the Finance Office to be designated by the Finance Officer as his Alternate shall continue to serve, ex-officio, as Chairman of the Real Estate Commission, but without added compensation for their services as such.

PART XIV

Board of Accountancy.

A. *Establishment.*—Pursuant to authority contained in section 4 of the Act of Congress approved September 16, 1966 (Public Law 89-578; 80 Stat. 786), there is hereby established, within the Department of Occupations and Professions, a Board of Accountancy.

B. *Delegation of Functions.*—The Board of Accountancy is hereby delegated all of the technical and professional functions vested in the Commissioners by said Act, including the function of making final determinations in connection with the issuance, denial, suspension, or revocation of certificates. The administrative functions authorized to be performed by the Act are hereby delegated to the Director of the Department of Occupations and Professions: *Provided*, That the functions of (1) adopting and prescribing rules and regulations, (2) establishing the time of frequency for periodic renewal registration, and (3) establishing, abolishing, increasing, or decreasing fees pursuant to authority contained in the Act, shall remain vested in the Commissioners.

C. *Composition of Board and Qualifications and Terms of Office of Members.*—The Board of Accountancy shall be composed of three certified public accountants of the District of Columbia with the qualifications set forth in section 4 of the aforesaid Act. The members shall be appointed by the Board of Commissioners for terms of three years. No Board member shall serve more than two consecutive terms.

D. *Compensation.*—Members of the Board of Accountancy shall receive the same rates of honoraria as are set for the other boards and commissions of the Department of Occupations and Professions by Commissioners' Order No. 60-1182, dated June 1, 1960.

E. *Applicability.*—Except where inconsistent with this Part, all other Parts of this Order shall apply to the Board of Accountancy.

ORGANIZATION ORDER NO. 1.—ORIGINATING AGENCY:
Executive Office of the Commissioner

Organization Ord. No. 1, dated Nov. 3, 1967, provided:

WHEREAS, the Board of Commissioners of the District of Columbia, prior to the time Reorganization Plan No. 3 of 1967 (32 F.R. 11669) took effect pursuant to Section 504 thereof, had delegated to various officers, agencies, and employees certain functions, duties, powers and authorities vested in the said Board of Commissioners; and

WHEREAS, Section 401 of Reorganization Plan No. 3 of 1967 provides that at the time such section becomes effective, certain functions of the Board of Commissioners of the District of Columbia, including certain functions of the President of that Board and certain functions of each other member of that Board and including also the executive power vested therein, are transferred to the Commissioner of the District of Columbia; and

WHEREAS, Section 504(b) of Reorganization Plan No. 3 of 1967 provides that section 401, among other provisions of the Plan, shall become effective when for the first time there are in office under such Plan both (1) the Commissioner provided for in Part III of the Plan, and (2) not less than six members of the Council provided for in Part II of the Plan; and

WHEREAS, the Commissioner of the District of Columbia and the members of the Council have been appointed by the President, their appointments have been confirmed by the Senate, and each of the aforesaid persons has taken an oath or affirmation to support the Constitution of the United States and to faithfully discharge the duties imposed on him as the Commissioner or as a member of the Council, all as required by Reorganization Plan No. 3 of 1967:

NOW, THEREFORE, by virtue of the authority vested in me by Sections 303 and 305 of Reorganization Plan No. 3 of 1967, *It is ordered that:*

All functions, duties, powers, and authorities transferred from the Board of Commissioners, D.C., to the Commissioner of the District of Columbia, pursuant to Section 401 of Reorganization Plan No. 3 of 1967, are hereby delegated, effective at the time of such transfer, to those officers, agencies, and employees to whom or to which such functions, duties, powers, and authorities had been delegated by the Board of Commissioners, D.C., immediately prior to the taking effect of Section 401 of such Plan, this delegation to continue until otherwise ordered, except as hereafter provided; *And it is further ordered that:*

Wherever there appears in the title or body of existing Reorganization and Organization Orders the terms "the Board of Commissioners", "the Commissioners", "the three Commissioners", "a Commissioner", "the President of the Board of Commissioners", "the President, Board of Commissioners", "the Engineer Commissioner", "the Assistant to the Engineer Commissioner", "the Assistant Engineer Commissioner", "the Assistant Engineer Commissioner for Planning and Programming", "the Assistant Engineer Commissioner for Planning", "the Assistant Engineer Commissioner for Urban Development", "the Assistant Engineer Commissioner for Urban Renewal", or "the Assistant Engineer Commissioner for Operations", such terms shall be deemed to refer to the Commissioner of the District of Columbia or such person as he may hereafter designate, and all verbs, and modifying words and phrases used in connection with any such terms shall be deemed amended in accordance with appropriate grammatical usage; *And it is further ordered that:*

Whenever there appears in the title or body of existing Reorganization or Organization Orders the plural possessive of the term Commissioner, such term shall be deemed amended to the singular possessive; *And it is further ordered that:*

Wherever there appears in the body of existing Reorganization or Organization Orders the phrase "the Commissioner concerned", "the appropriate Commissioner", "the ranking member of the Board of Commissioners who is available and able to do so", "the ranking member of the Board of Commissioners who is available and able to assume command during a disaster", "the Commissioner to whom assigned", or "the designated Commissioner through whom the supervisory responsibility of

the Commissioners is exercised", such phrases shall be deemed amended to refer to the Commissioner of the District of Columbia; *And it is further ordered that:*

Wherever there appears in the body of existing Reorganization and Organization Orders the terms "Secretary to the Board of Commissioners", "Secretary, Board of Commissioners", "Commissioners' Staff Assistant for Special Studies and Investigations", or "the three Administrative Assistants to the Commissioners", such terms shall be deemed amended to refer to such person or persons in the Executive Office of the Commissioner (as established by Organization Order No. 2, promulgated simultaneously herewith) as the Commissioner may designate; *And it is further ordered that:*

Wherever there appears in the body of existing Reorganization and Organization Orders the phrases "the Board of Commissioners through the Engineer Commissioner", or "the Board of Commissioners through the Assistant Engineer Commissioner for Urban Renewal", such phrases shall be deemed amended to "the Commissioner"; *And it is further ordered that:*

Wherever there appears in the body of existing Reorganization and Organization Orders the phrases "the Board of Commissioners generally and the Engineer Commissioner specifically", "the Engineer Commissioner and the Board of Commissioners", or "the Commissioners, or the Engineer Commissioner", such phrases shall be deemed amended to "the Commissioner"; *And it is further ordered that:*

The provisions of the Order shall be effective on November 3, 1967, at the time on that day when the functions of the Board of Commissioners of the District of Columbia including functions of the President of that Board and functions of each other member of that Board and including also the executive power vested therein are transferred to the Commissioner of the District of Columbia, pursuant to Section 401 of Reorganization Plan No. 3 of 1967.

ORGANIZATION ORDER NO. 2 (Amendment No. 1).—
EXECUTIVE OFFICE OF THE COMMISSIONER

(Organization Ord. No. 2, Commissioner's Order No. 67-23, Dec. 13, 1967 as further amended Mar. 7, 1968 and June 6, 1968 and Sept. 30, 1968.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, *It is ordered that* Organization Order No. 2 dated November 3, 1967, is hereby amended and reissued in its entirety to read as follows:

PART I

Executive Office of the Commissioner.—There is hereby established, under the direction and control of the Commissioner of the District of Columbia, an Executive Office of the Commissioner. The Commissioner shall have full authority over such Office and all personnel assigned thereto.

PART II

Purpose.—The Executive Office of the Commissioner is established for the purpose of providing such managerial, budgetary, personnel, secretarial, informational and special assistance as the Commissioner may require in the administration of the Government of the District of Columbia. There is hereby transferred to the Executive Office the functions including the duties, powers and authorities of all officers and employees assigned to, and all positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available to the Executive Office of the Board of Commissioners as it existed immediately prior to the effective date of this Order, except as otherwise contained herein.

PART III

Organization.—There are hereby established in the Executive office of the Commissioner (a) a Management Office, headed by a Management Officer, (b) a Budget Office, headed by a Budget Officer, (c) a Personnel Office, headed by a Personnel Officer, (d) The Secretariat, headed by an Executive Secretary, and (e) such other organizational components and positions, with such duties and titles, as the Commissioner shall from time to time determine.

Program Coordination Office.—There is also established in the Executive Office, the Program Coordination Office,

heretofore part of the Staff of the Office of the Director of General Administration, and there is hereby transferred to the Executive Office the functions including the duties, powers and authorities of all officers and employees assigned to, and all positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available to the Program Coordination Office as it existed immediately prior to the effective date of this Order.

Public Affairs Office.—There is also established in the Executive Office, a Public Affairs Office, headed by a Public Affairs Officer, who shall be responsible for supplementing the existing procedures for the preparation and dissemination, chiefly through the media of radio and television, of information to the public concerning the District of Columbia. The Public Affairs Officer also shall be responsible for the preparation of the narrative Annual Report of the Government of the District of Columbia which is submitted to Congress. There is hereby transferred to the Executive Office the functions, including the duties, powers and authorities of all officers and employees assigned to, and all positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available to the Public Affairs Office as it existed immediately prior to the effective date of this Order.

PART IV

Functions.—A. Management Office.

1. The Management Office is responsible for:

a. Assisting and advising the Commissioner with respect to planning, developing, coordinating, and directing the management program and related management activities for the District of Columbia Government, covering the complete range of functions contained therein, with the major objectives of economy and increased efficiency. This Office shall also be responsible for making studies and recommendations for developing the organizational structure, distribution and redistribution of functions, lines of authority, staffing, space, methods and procedures necessary for an orderly implementation of Reorganization Plan No. 3 of 1967, requiring a thorough study of existing agencies and departments of the District of Columbia Government and the integration into new staff and operating departments of all functions of the organization to assure efficient and economical operations.

b. Planning, developing, directing and coordinating programs for improved management, such as: (1) effective use of automatic data processing systems and equipment; (2) survey and appraisal of departmental organizations and programs; (3) demographic and statistical studies and research; (4) paperwork management (including the review of systems utilizing equipment such as power or mechanized files); (5) manpower utilization; and (6) related management activities.

2. There are hereby transferred to the Management Office the functions, including the duties, powers and authorities of all officers and employees assigned to the Management Office as it existed immediately prior to the effective date of this Order.

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the above functions are hereby transferred to the Management Office.

B. Budget Office.

1. The Budget Office is responsible for:

a. Assisting and advising the Commissioner and the heads of the departments and offices in the development and implementation of improved budgetary policies, practices, and procedures; administering central internal budgetary coordination and control for the D.C. Government; analyzing budget requests and recommending specific budget estimates which adequately meet program and performance requirements; preparing the budget for the District Government as approved by the Commissioner and the District of Columbia Council and assisting and participating in the presentation of budget estimates and justifications before the Bureau of the Budget and appropriations committees of the Congress.

b. Developing and preparing for consideration by the Commissioner, policies, procedures, and practices govern-

ing the preparation and administration of the budget in the D.C. Government.

c. Advising and assisting the departments and offices in the preparation of budget estimates and supporting data.

d. Analyzing budget estimates prepared by the departments and offices to insure that they properly reflect the financial requirements of the D.C. Government, and assisting in the presentation of such estimates before the Commissioner.

e. Advising and assisting the Commissioner in determining all D.C. Government budget estimates.

f. Preparing the budget estimates for the District Government as approved by the Commissioner and Council.

g. Arranging for and participating in the presentation of budget estimates at hearings before the Congressional appropriations committees.

h. Serving as liaison between the D.C. Government and the Bureau of the Budget and the appropriations committees on budgetary matters.

i. Maintaining budgetary controls over funds appropriated to the D.C. Government, including the making of apportionments of appropriations or changes therein, and the establishment of budgetary and administrative reserves. The actions of the Budget Officer in making apportionments of appropriations or changes therein will be reviewed by the Commissioners.

j. Prescribing systems of records and reports for budget purposes.

k. Receiving and compiling the annual, supplemental and deficiency budget estimates for the District of Columbia.

l. Advising as to anticipated D.C. revenues and the availability of such revenues for general, special, and trust fund purposes.

m. Advising as to proposed legislation involving revenues and expenditures, by cooperation with the Corporation Counsel and other interested officials.

n. Preparing budgetary reports as required by the Commissioner, the Budget Bureau and the Congress; preparing such other budgetary reports as may be required for internal administrative use.

o. Preparing the Financial and Statistical Report which is a supplement to the Annual Report of the District of Columbia.

p. Establishing accounting standards for the District Government and developing an overall system of accounting to reflect the assets and liabilities and financial operations of the District of Columbia; advising and assisting departments and agencies in developing and installing internal accounting systems, including systems for the measurement of costs, in conformance with and auxiliary to the overall system of accounting.

2. There are hereby transferred to the Budget Office the functions, including the duties, powers and authorities of all officers and employees assigned to the Budget Office as it existed immediately prior to the effective date of this Order.

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the above functions are hereby transferred to the Budget Office.

C. Personnel Office.

1. The Personnel Office is responsible for:

a. Assisting and advising the Commissioner with respect to the promotion of outstanding public service by the District Government, the achievement of efficiency and economy, and the development of high employee competence and enthusiasm; insuring equal employment opportunity; working with the departments to develop personnel policies and programs; giving staff advice and assistance to the Commissioner and to the departments on personnel matters.

b. With respect to all departments of the District of Columbia Government, but consistent with the authority vested by law in the Commissioner, D.C., developing and administering all aspects of a complete personnel management program, including, but not limited to, those relating to position classification, pay administration; employment and placement; separations; training; employee relations; employee management cooperation; performance evaluation; safety; disability compensation;

equal employment opportunity programs; special economic opportunity programs; retirement; incentive awards; records and reports. With respect to the responsibility assigned herein the Personnel Officer is delegated specific authority to:

- (1) Classify all positions up to and including GS-15.
- (2) Classify all wage board positions including the revision and modification of the wage board pay and evaluation systems.
- (3) Approve, on recommendations of department or agency heads, all personnel actions except appointments, promotions, and disciplinary and adverse actions involving (a) positions at grade GS-14 and above; (b) positions of heads of departments and agencies, regardless of grade level; and (c) positions in the uniformed forces of the Police and Fire Departments above the rank of Captain.
- (4) Establish rates of pay for and approve appointments of experts and consultants.
- (5) Establish special rates of pay such as stipends for employees under Public Law 330, 80th Congress, rates for students under the college work-study program (Title IV C of Public Law 329, 89th Congress), and rates for employees or individuals coming under the provisions of economic opportunity programs or other programs where generally no formal pay plans exist.
- (6) Classify all positions in the Federal City College and Washington Technical Institute coming under the salary provisions of the administrative salary schedules and faculty salary schedules.
- (7) Promulgate and interpret, on behalf of the Commissioner, personnel policies, procedures and related instructions and amendments thereto through the medium of the District Personnel Manual or special issuances, except that all major policy determinations or changes, as determined by the Personnel Officer, which are not required by any law or U.S. Civil Service Commission regulation, shall be subject to clearance with the Commissioner (or his designee) prior to issuance by the Personnel Officer.
- (8) Classify or reclassify positions subject to the Teachers' Salary Act, as amended, and specify those positions to be brought under or removed from the coverage of such Act.

(9) Determine which positions in the Police and Fire Departments are subject to the D.C. Police and Firemen's Salary Act, as amended, and, with the cooperation of the Chief of Police and the Fire Chief, as appropriate, classify or reclassify on the basis of the difficulty, responsibility and qualification requirements all positions in the uniformed forces subject to such Act.

c. Serving in an advisory capacity in all personnel matters to the Commissioner and the various departments and agencies of the D.C. Government.

2. The Personnel Officer may redelegate in whole or in part to heads of departments and agencies the functions and the duties set forth in subsection 1 of Section C of this Part IV.

3. There is hereby established a District of Columbia Wage Scale Board, consisting of the Personnel Officer as Chairman and other members to be appointed by the Personnel Officer, D.C., as the need arises, including: one departmental representative from each of the six departments having the largest number of wage board employees, and employee representatives to be selected from among the various departments. The function of such Board shall be to advise the Commissioner as to the wage rates that should be paid those employees authorized by law to be employed under wage board procedures. Subsequent to approval by the Commissioner, the Personnel Officer shall issue wage schedules or orders necessary to place such rates into effect.

4. There are hereby transferred to the Personnel Office the functions, including the duties, powers and authorities of all officers and employees assigned to the following agencies, divisions and sections as they existed immediately prior to the effective date of this Order:

Office of the Personnel Officer
Employment and Training Division
Classification Division
Salary and Wage Division
Board of Appeals on Wage Board Positions
D.C. Wage Scale Board

5. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the above functions are hereby transferred to the Personnel Office.

* * * * *

D. The Secretariat.

1. The Secretariat is responsible for:

- a. Performing ministerial duties for the Commissioner; maintaining official records relieving the Commissioner of the burden of taking, in the name of the District Government, action in such matters as the Commissioner shall from time to time specifically determine.
- b. Preparing and issuing Commissioner's Orders, proclamations, directives, administrative issuances to heads of departments and statements to the public and press.
- c. Maintaining official records of Commissioner actions in appropriate form, including orders, letters sent, and approved legal opinions.
- d. Maintaining mailing lists of citizens and other groups interested in the civic affairs of the District.
- e. Handling for the Commissioner a wide variety of complaints and inquiries made by the public by letter, telephone, or personal visits in such manner as will best conserve the time of the Commissioner.
- f. Maintaining a follow-up system to insure compliance with Commissioner's decisions and directives by heads of all departments and offices of the District Government.
- g. Acting for the Commissioner in carrying out the provisions of Section 4(c)(2) of the District of Columbia Unemployment Compensation Act as amended by Public Law 721, 83rd Congress, approved August 31, 1954.
- h. Maintaining general files on all categories of records pertinent to the actions of the Commissioner.

i. Attesting to the authenticity of official records.

j. Serving as sole custodian of the Seal of the District of Columbia and being responsible for its proper use.

k. Being responsible for the publication, storage, sale and distribution of all codes, maps, regulations and amendments thereto including accountability for the D.C. Publications Fund, affecting the general public and maintaining of such codes, maps, regulations and amendments thereto, in a form readily accessible to the public.

2. There are hereby transferred to The Secretariat the functions enumerated in Subsection 1 of Section D of this Part IV, including the duties, powers and authorities of all officers and employees performing such functions and assigned to the Office of the Secretary as it existed immediately prior to the effective date of this Order.

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the functions enumerated in Subsection 1 of Section D of this Part IV are hereby transferred to The Secretariat.

PART V

Revocations and abolitions.—Reorganization Orders of the former Board of Commissioners, Numbers 3 (Department of General Administration, August 28, 1952, as amended), 8 (Management Office, September 25, 1952, as amended), 21 (Personnel Office, November 20, 1952, as amended), 24 (Budget Office, December 30, 1952, as amended), 124 (Public Affairs Office, October 22, 1959, as amended), and 40 (Executive Office of the Board of Commissioners, June 23, 1953) are hereby revoked and the departments, offices and officers which were established thereby are abolished, subject to such measures and dispositions made by the Bureau of the Budget pursuant to Section 502 of Reorganization Plan No. 3 of 1967. All other Reorganization and Organization Orders of the former Board of Commissioners, or parts thereof, to the extent that they are inconsistent with this Order, but only to that extent, are hereby revoked.

PART VI

Effective date.—The provisions of this Order shall be effective on December 13, 1967.

ORGANIZATION ORDER NO. 3 (Amendment No. 1).— DEPARTMENT OF GENERAL ADMINISTRATION

(Organization Ord. No. 3, Commissioner's Order No. 67-24, Dec. 13, 1967, as further amended June 6, 1968, and Dec. 26, 1968.) See also Org. Ord. No. 9.

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, *It is ordered that Organization Order No. 3 dated November 3, 1967 is hereby amended and reissued in its entirety to read as follows:*

PART I

Department of General Administration.—There is hereby established under the direction and control of the Commissioner of the District of Columbia, a Department of General Administration, headed by a Director of General Administration. The Commissioner shall have full authority over such Department and Director and over all personnel assigned to such Department. There is hereby transferred to the Department of General Administration all employees assigned to the Department of General Administration as it existed immediately prior to the effective date of this Order and not otherwise assigned by this or any other organization order.

PART II

Purpose.—The Department of General Administration is established for the purpose of providing such administrative, auditing, financial and procurement assistance as may be required in the administration of the Government of the District of Columbia.

PART III

Organization.—There are hereby established in the Department of General Administration (1) an Administrative Services Office, headed by an Administrative Services Officer, (2) an Internal Audit Office, headed by an Internal Audit Officer, (3) a Finance Office, headed by a Finance Officer, (4) a Procurement Office, headed by a Procurement Officer, and (5) such other organizational components and positions with such duties and titles as the Commissioner shall from time to time determine.

PART IV

Functions.—A. *Administrative Services Office.*

1. The Administrative Services Office is responsible for:

a. Assisting and advising the Director, Department of General Administration, with respect to promoting maximum efficiency in the performance of various housekeeping functions common to departments and offices in conformance with policies of the Commissioner.

b. Performing, reviewing or making recommendations for furnishing printing, duplicating, binding, blueprinting, photostating, microfilming, and selecting necessary equipment therefor.

c. Providing a mail and messenger service which shall receive and dispatch mail as assigned and installing and operating such internal mail and messenger system as may be authorized by the Commissioner after study.

d. Reviewing space needs, except public space, and submitting reports and recommendations for assignments to the Director of General Administration (and to the Commissioner when appropriate) and executing control of approved assignments. Coordinating moving of office and other equipment in consequence of space assignments or reassignments by the Commissioner which shall include, among others, such matters as fixing the date of moving, and insuring public notice thereof where necessary. Departments and offices having facilities for assisting in the performance of such moving shall, upon request of the Administrative Services Officer, contribute them to such purpose to the limit of their capabilities.

e. Reviewing and promoting the most effective assignment of office equipment and establishing its useful life for purpose of replacement.

f. Maintaining records of the assignment of all District-owned passenger carrying vehicles, except those assigned to the Police and Fire Departments, and continually studying the utilization of them for the purpose of recommending reassignment or retirement.

g. Maintaining complete records of space allotted to District employees for parking privately owned motor vehicles on District or Federally owned property, reviewing requests for and making recommendations for assignments and executing control of approved assignments.

h. Developing and executing a complete program for property administration covering real and personal property of the District Government, performing the work on a centralized basis for real property, but developing and supervising an effective decentralized program for

personal property. This program shall include the acquisition of real property, except condemnation proceedings and dedications of streets, alleys, etc.; outleasing and disposition of real property; demolition of abandoned or condemned structures on District Government land; sale or disposition of unserviceable, surplus or trade-in equipment and scrap material; acquisition and distribution of surplus property for educational, public health, civil defense and other purposes authorized by law; and inventory control procedures. Supplementing but excluded from jurisdiction of the program are the fiscal control accounts required in the chief accountant's office for purposes of effective internal controls.

2. There are hereby transferred to the Administrative Services Office the functions enumerated in Subsection 1 of Section A of this Part IV, including the duties, powers and authorities of all officers and employees assigned to the following agencies, divisions and sections as they existed immediately prior to the effective date of this Order:

Office of the Administrative Services Officer
Educational Surplus Property Division
Printing and Reproducing Division
Real Estate Division
Personal Property Utilization Division
Business Management Division

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the functions enumerated in Subsection 1 of Section A of this Part IV are hereby transferred to the Administrative Services Office.

B. *Internal Audit Office.*

1. The Internal Audit Office is responsible for:

a. Assisting and advising the Director, Department of General Administration, with respect to developing and maintaining a system for the continuous or periodic examinations of the accounts and financial practices of the District of Columbia Government to the end that the Commissioner, the Director of General Administration, and the various department and office heads will be informed as to the currency, accuracy, and integrity of financial accounts and records in conformance with policies of the Commissioner.

b. Verifying transactions and balances pertaining to income, expenditures and transfer of all appropriated funds, special limitations imposed by Congress, special and trust funds, and allotments to the extent necessary to ascertain compliance with established laws, regulations, policies and procedures.

c. Preparing periodic reports relative to the conditions of the accounting systems, the propriety of operations and transactions, and any defalcations or other failures to account for funds.

d. Making specific recommendations for correcting deficiencies in the accounting systems, as these are revealed by either the continuous or the periodic audits.

e. Reviewing and appraising existing accounting policies and procedures in terms of their adequacy and effectiveness in controlling income, expenditures, funds, property and other assets, including costs, and in disclosing financial information to management at various levels.

f. Serving in an advisory capacity in matters pertaining to internal accounting and control.

g. Pursuant to the provisions of Public Law 561, 85th Congress, 2d Session, approved July 28, 1958, serving as the designated agent of the Commissioner in certifying as to the accuracy of the financial statement required of the Armory Board by Section 10 of the District of Columbia Stadium Act of 1957.

h. Acting for the Director of General Administration, coordinating with District departments concerned, all audit reports submitted by the General Accounting Office in their review of District Government activities.

2. There are hereby transferred to the Internal Audit Office the functions, including the duties, powers and authorities of all officers and employees assigned to the Internal Audit Office as it existed immediately prior to the effective date of this Order.

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other

funds available or to be made available relating to the above functions are hereby transferred to the Internal Audit Office.

C. Finance Office.

1. There are hereby established in the Finance Office, under the supervision and direction of the Finance Officer, the following organizational components:

Office of the Finance Officer
Property Tax Division
Revenue Division
Treasury Division
Accounting Division
Data Processing Division
Board of Equalization and Review

2. The Finance Office is responsible for:

a. Assisting and advising the Director of the Department of General Administration and where appropriate the Commissioner with respect to administering the laws and regulations relating to taxes, fees, and assessments; collecting and depositing all revenues of the District of Columbia in appropriate depositories and monitoring appropriate accounts relating thereto; maintaining centralized general ledger and appropriation accounts and controls reflecting the assets and liabilities and financial operations of the District of Columbia, and allotment accounts for control of funds available for expenditure, and preparing necessary accounting reports and financial statements thereon; and preauditing certifying and properly disbursing District of Columbia funds.

b. Office of the Finance Officer:

(1) Developing and proposing to the Director of General Administration and where appropriate the Commissioner major programs, policies and procedures on all taxation and fiscal matters within the purview of the Finance Office's functions.

(2) Being responsible for overall administration execution, and interpretation of the applicable laws and regulations relating to taxation and finance within the purview of the Finance Office's functional responsibility and scope of operations.

(3) Planning the programs and prescribing the policies of the Finance Office and planning, directing, coordinating and supervising its activities in accordance with the overall policies of the Department of General Administration.

(4) Reviewing proposed plans and legislation relating to finance and revenue matters originating within the Finance Office or with the departments or agencies of the District of Columbia Government and consulting with and advising the Director of General Administration and the Commissioner in fiscal and revenue matters.

(5) Studying the fiscal system for the purpose of determining the economic consequences of the existing structure or alternate structures and developing overall fiscal research program including estimating tax revenue; preparing monthly, annual and special reports.

(6) Reviewing and approving or modifying assessments of real property prior to action by the Board of Equalization and Review; reviewing personal property assessments and administrative determinations of tax liability for all other taxes and taking appropriate action.

(7) When such action is warranted waiving interest or penalties, or both, on all taxes administered by the Finance Office other than special assessments. For those amounts in excess of the tolerance established by the Finance Officer, with the approval of the Director of General Administration, for routine processing, billing and collecting of penalty and interest, maintaining appropriate records showing actions taken and reasons therefor.

(8) For those taxes other than real estate taxes administered by the Finance Office, making final determinations on all requests for tax exemption in accordance with applicable laws, regulations, and Corporation Counsel opinions; and maintaining appropriate records showing actions taken and reasons therefor.

(9) For those taxes administered by the Finance Office, making final determinations on all offers in compromise for settling tax liability; and maintaining appropriate records showing actions taken and reasons therefor. In those cases where litigation is pending or where no legal precedent has previously been established but legal

advice is necessary or desirable, consulting with the Corporation Counsel.

(10) Administering as agent of the Commissioner of the District of Columbia, the provisions of Public Law 85-558, 85th Congress, 2d Session, approved July 25, 1958 (D.C. Code, Sec. 25-124).

(11) Certifying to the Secretary of the Treasury amounts requested to be restored from lapsed appropriations as being necessary for the payment of audited claims under such appropriations and, provided, the D.C. Budget Office shall be informed of all such amounts certified, pursuant to the provisions of Section 14, District of Columbia Appropriation Act of 1959, approved August 6, 1958.

(12) Except as to such duties and functions as are performed in conjunction therewith by the Recorder of Deeds, D.C., administering, as agent of the Commissioner, the provisions of Title III of Public Law 87-408, 87th Congress, approved March 2, 1962.

c. Property Tax Division:

(1) Valuing all real estate, taxable and exempt, and all taxable tangible personal property for assessment purposes.

(2) Making studies of property values and developing appraisal standards and techniques.

(3) Conducting sales ratio studies and determining depreciation and obsolescence factors.

(4) Preparing and maintaining tax maps and other necessary records.

(5) Approving the levying of all special assessments against real estate as provided by law and regulations; assessing rents for vault space upon information furnished by the Director of Highways; and, upon written notification from the Director of Licenses and Inspections, the Director of Public Health, or the Board for the Condemnation of Insanitary Buildings, that a nuisance has been abated or an illegal or insanitary condition has been corrected, as the case may be, including a statement of the exact cost of such abatement or correction, recording proper assessment and rendering bills thereon as provided by law.

(6) Administering real estate tax sales.

(7) Performing such incidental duties as may be necessary for the proper performance of the functions assigned.

d. Revenue Division:

(1) Developing and conducting audit programs and determining extent of tax liability in connection with the administration of income and franchise, sales, use and excise, inheritance and estate and other related taxes.

(2) Developing and conducting investigation and compliance programs and determining extent of tax liability in connection with the aforesaid taxes.

(3) Conferring with taxpayers with respect to protests of proposed assessments.

(4) Administering and executing the licensing requirements of the tax laws and regulations administered by the Finance Office.

(5) Performing such incidental duties as may be necessary for the proper performance of the functions assigned.

e. Treasury Division:

(1) Collecting revenues of the District of Columbia, accounting for and distributing all collections into appropriate revenue accounts, and depositing with the Treasurer of the United States all funds so received.

(2) Making disbursements in accordance with law and regulations, in cash or by checks drawn on the Treasurer of the United States, based on vouchers and payrolls duly certified by a designated certifying officer, and being accountable therefor.

(3) Being responsible for all balances with the United States Treasury.

(4) Dispensing and accounting for tax stamps.

(5) Being responsible for the custody of trust fund securities.

(6) Conducting programs relating to the enforcement of collections of delinquent taxes, referring to the Corporation Counsel those accounts requiring court action.

(7) Conducting investigations and taking such action as is provided by law to enforce collection of delinquent and unpaid tax accounts, including the filing of liens and the seizure of goods and chattels and the public or private sale of same.

(8) Conferring with other jurisdictions with respect to reciprocal agreements on tax matters, and making appropriate recommendations to higher authority.

(9) Selling at private sale all goods and chattels seized for nonpayment of District taxes when the highest bid offered therefor at public auction is not sufficient to meet the amount of taxes, penalties and costs due thereon; and defraying the cost of advertising, handling, auctioneer's fee and other expenses incidental to the holding of such sale, from the proceeds therefrom.

f. Accounting Division:

(1) Maintaining centralized general ledger accounts and controls reflecting the assets and liabilities and financial operations of the District of Columbia, and establishing and maintaining allotment accounts for control of funds available for expenditure.

(2) Maintaining accounting records for, preparing, and certifying payrolls.

(3) Preauditing and certifying the correctness and propriety of obligations and expenditures.

(4) Maintaining records and reports and performing duties pertinent to retirement administration and accounting, the Federal Employees Life Insurance program, and United States savings bond accounting.

(5) Compiling and preparing accounting information and reports for the purpose of reflecting the financial status and condition of the District Government or any of its parts.

(6) Reviewing requests for official travel by all District offices and employees as to form and authority, issuing transportation requests and instructing travelers and departments in the requirements of the travel regulations and Commissioner's travel policies.

g. Data Processing Division:

(1) Utilizing electronic data processing systems and related equipment performing centralized data processing operations for the Finance Office including but not limited to tax accounting and payroll programs.

(2) From time to time performing automatic data processing services for the departments and agencies of the District of Columbia based on the needs and requirements of such departments and agencies and the Division's schedule of operations.

(3) Performing such other related duties as may be necessary for the proper performance of the functions assigned.

3. Board of Equalization and Review:

a. There is hereby established in the Finance Office, a Board of Equalization and Review composed of the Finance Officer, who shall act as Chairman, and two or more persons who are conversant with real estate values in the District of Columbia, to be designated by the Finance Officer, with the approval of the Director of General Administration. The Chairman may designate an alternate Chairman to serve in his stead.

No person appointed from the general public shall sit as a member of the Board to hear complaints or appeals against real estate assessments which involve property in which said person, through owning, selling, acting as an agent or otherwise, has a personal interest.

b. The Board shall formulate rules of procedures for the conduct of its affairs. Any three members of said Board meeting at the call of the Chairman shall constitute a quorum.

c. The functions to be performed by the Board of Equalization and Review shall include but not be limited to the following:

(1) Reviewing and equalizing real estate assessments in the manner prescribed by law.

(2) Hearing complaints against real estate assessments and taking appropriate action in the manner prescribed by law.

(3) Transmitting equalized assessments to the Commissioner for approval as prescribed by law.

4. Committee on Special Assessment Appeals.—There is hereby established a Committee on Special Assessment Appeals, such Committee to comprise an Assistant Corporation Counsel designated by the Corporation Counsel, the Finance Officer, and an official of the Finance Office to be designated by the Finance Officer. The Assist-

ant Corporation Counsel shall be Chairman of the Committee.

The Committee is hereby delegated the following authorities and its decisions thereon shall be final: (a) abating, reducing, or adjusting special assessments due the District of Columbia in accordance with its findings; and (b) waiving, in whole or in part, interest or penalties, or both, on special assessments due the District of Columbia.

5. There are hereby transferred to the Finance Office the functions, including the duties, powers and authorities of all officers and employees assigned to the following agencies, divisions and sections as they existed immediately prior to the effective date of this Order.

Office of the Finance Officer

Property Tax Division

Revenue Division

Treasury Division

Accounting Division

Data Processing Division

Board of Equalization and Review

6. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available to or to be made available relating to the above functions are hereby transferred to the Finance Office.

D. Procurement Office.

1. The Procurement Office is responsible for:

a. Assisting and advising the Director of the Department of General Administration and where appropriate the Commissioner with respect to obtaining the maximum advantages of centralized purchasing and developing, installing, and supervising effective and simplified purchasing policies and procedures for departments and offices of the District of Columbia Government.

b. Purchasing, in accordance with such instructions as the Director of General Administration may from time to time give, surplus and excess Federal personal property for departments and officers of the District of Columbia Government.

c. Initiating and developing, in collaboration with departments and offices, up-to-date and effective purchasing policies and programs for consideration by the Director of the Department of General Administration and where appropriate the Commissioner.

d. Creating and adopting, subject to the approval of the Director of General Administration, the most simplified purchasing procedures in the interest of economizing on administrative costs and expediting action.

e. Preparing periodic economic reports dealing with the field of purchasing, and furnishing estimated price data when requested by the Budget Officer, D.C., preparing such other reports as required for internal administrative use or requested by the Director of General Administration.

f. Serving in an advisory capacity to the Commissioner, the Director of General Administration, and department and office heads in matters pertaining to purchasing and contracting.

g. Conducting a continuous program of analysis, appraisal, and cataloging of materials and supplies procured for District departments and offices in the interest of standardization and economy. Keeping informed on new products manufactured and technological changes and improvements in manufacturing processes, and, on the basis of such information considering, in collaboration with using agencies, alternate or substitute materials.

h. Furnishing and certifying as true, copies of contracts, bonds, and other documents which are in the official custody of the Procurement Office upon application and payment, by persons other than officials of the District of Columbia, of such fees as may be established by the Government of the District of Columbia.

1. Administering all functions dealing with the bonding of District employees for faithful performance of their official duties, including the fixing of penal sums of bonds wherein such bonding is dictated by existing laws, regulations, Commissioner's Orders, and other elements consistent with the public interest. Creating and adopting the most economical and simplified system and

procedures for administering all matters connected therewith.

2. There are hereby transferred to the Procurement Office the functions, including the duties, powers and authorities of all officers and employees assigned to the following agencies, divisions and sections as they existed immediately prior to the effective date of this Order:

Office of the Procurement Officer
Requirements Division
Technical Buying and Negotiated Services Division
Bid and Contract Division
General Buying Division
Supply Programming Division
Contract Advisory Committee

3. All positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available or to be made available relating to the above functions are hereby transferred to the Procurement Office. (See part VII of Org. Ord. 9.)

PART V

Revocations and Abolitions.—The Organization Orders of the former Board of Commissioners Number 3 (Department of General Administration, August 28, 1952, as amended), 18 (Administrative Services Office, October 23, 1952, as amended), 19 (Internal Auditor Office, November 10, 1952, as amended), 121 (Finance Office, December 12, 1957, as amended), and 29 (Procurement Office, September 17, 1952, as amended), are hereby revoked and the departments, offices and officers which were established thereby are abolished. All other Reorganization and Organization Orders of the former Board of Commissioners, or parts thereof, to the extent that they are inconsistent with this Order, but only to that extent, are hereby revoked.

PART VI

Effective date. The provisions of this Order shall be effective on December 13, 1967.

ORGANIZATION ORDER NO. 4

This Org. Ord. dated Nov. 3, 1967, is an amendment of Reorg. Ord. No. 50; see that order, *supra*.

ORGANIZATION ORDER NO. 5

This order dated Nov. 3, 1967, is an amendment of Org. Ord. No. 127; see that order, below.

ORGANIZATION ORDER NO. 6.—BOARD OF PAROLE

(Organization Ord. No. 6, Commissioner's Order No. 67-95, Dec. 26, 1967.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, *It is ordered that:* Reorganization Order No. 33, dated May 28, 1953, as amended, is hereby redesignated Organization Order No. 6 and amended to read as follows:

PART I

Board of Parole.—There is hereby established in the Government of the District of Columbia a Board of Parole, headed by a Chairman. The supervisory responsibility of the Commissioner for the activities of the Board of Parole shall be exercised by the Commissioner or his designee.

PART II

Purpose.—The Board of Parole is established to: determine if and when it is in the best interest of society and the offender to release him into the community on parole or on conditional release in the case of committed young offenders; determine the terms and conditions of such parole or release; determine, in collaboration with the Department of Corrections, standards of supervision for persons on parole or conditional release; and determine if and when to terminate a parole or conditional release or to modify the terms or conditions thereof.

PART III

Composition and membership.—The Board of Parole shall consist of three members who shall be appointed by the Commissioner. Persons appointed to membership on the Board of Parole shall be selected on the basis of their broad experience in responsible positions in the fields of

correctional service, rehabilitation, law, or education in related fields of behavioral sciences.

PART IV

Chairman, Board of Parole.—A. The Chairman and Vice Chairman of the Board of Parole shall be designated by the Commissioner.

B. The Chairman shall preside at meetings of the Board of Parole, and provide for and supervise the administrative and ministerial activities and personnel of the Board.

C. The Chairman shall insure that all Board policies, plans, rules, and standards are coordinated with the Director of Corrections in order to provide for an effective and integrated correctional system and for continuity of treatment and training of offenders, geared to their readjustment as productive and useful members of society.

PART V

Functions.—1. Develops and recommends to the Commissioner major parole policies, including necessary legislation.

2. Advises and assists the Commissioner or his designee on parole matters, and represents him in coordinating parole policies or standards of the District of Columbia with those of Federal, State and local jurisdictions or other organizations.

3. Establishes standards governing the release of prisoners on parole or committed young offenders on conditional release, terms and conditions of such parole or release, standards of supervision (in collaboration with the Department of Corrections) for persons on parole or conditional release, and standards respecting violation and termination of parole or release.

4. Administers the parole laws applicable to the District of Columbia in regard to determining when to release prisoners on parole or to conditionally release committed youth offenders, setting the terms and conditions of parole or release, revocation or modification of parole or conditional release, subject to the approval of the District of Columbia Council, promulgation of rules and regulations permitting the discharge of parolees from supervision prior to the expiration of the maximum terms for which they were sentenced, recommending to the Courts, where applicable, a reduction in minimum sentences, and issuing warrants for the return of a parolee, conditional releasee, or good time releasee for failure to abide by the conditions of his release.

5. Conducts hearings and rehearings on all prisoners when eligible for parole and on all committed youth offenders when eligible for conditional release.

PART VI

Board decisions.—1. A quorum shall consist of any two members of the Board present and voting.

2. All decisions regarding approval, denial or revocation of parole shall be by majority vote of the Board.

PART VII

Term of office.—The term of office for the three Board members shall be for six years except for initial appointments which will be as follows: one shall be appointed for two years, one for four years and one for six years. Should a vacancy occur through the death, incapacity, resignation, or removal of a member, a successor shall be appointed to complete the unexpired term of that member. After the expiration of his term each member shall continue to serve until he is reappointed or his successor is appointed.

PART VIII

Repeal of previous orders.—All Orders and parts of Orders of the former Board of Commissioners or Orders or parts of Orders of the Commissioner in conflict with any of the provisions of this Order are, to the extent of such conflict, hereby repealed, but nothing in this Order shall in any way alter, amend or repeal any District regulation adopted or promulgated by the former Board of Commissioners or by the District of Columbia Council.

PART IX

Effective date.—This Order shall become effective on and after December 27, 1967.

ORGANIZATION ORDER NO. 7.—DEPARTMENT OF CORRECTIONS

(Organization Ord. No. 7, Commissioner's Order No. 67-94, Dec. 26, 1967.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, *It is ordered that:* Organization Order No. 154, dated February 7, 1967, is hereby redesignated Organization Order No. and amended to read as follows:

PART I

Department of Corrections.—There is hereby established in the Government of the District of Columbia a Department of Corrections, headed by a Director of Corrections. The supervisory responsibility of the Commissioner for the activities of the Department shall be exercised by the Commissioner or his designee.

PART II

Purpose.—The Department of Corrections is established to: safeguard the community and its people through control and protection of persons assigned to the Department's custody; care for such persons by providing them, as required by law, with food, clothing, shelter, medical care, and other necessities; improve the attitudes, behavior and capabilities of inmates through appropriate supervision, treatment, training, work, recreation, and related activities; and provide supervision, counseling, guidance and other assistance to inmates, conditionally released committed young offenders and parolees in readjusting themselves as useful members of society.

PART III

Director of Corrections.—A. The Director of Corrections shall be responsible for carrying out the purposes set forth in Part II herein, including the planning, development, and operation of an integrated correctional system, with necessary institutions and facilities, for accomplishing these purposes. On matters related to parole policies, plans, rules and standards, the Director shall insure that all Departmental activities are coordinated with the Board of Parole. On matters of primary importance to the activities of the Department, the Director shall consult with the Commissioner or his designee.

B. The Director, with the approval of the District of Columbia Council, shall have power to promulgate rules and regulations for administering the institutions and facilities of the Department, and is authorized to establish and conduct industries, farms, work release, community and residential programs and other activities for the employment, training or welfare of the inmates, including the operation of canteens for the purpose of selling merchandise to inmates and employees of the Department at a nominal profit; such profits shall be deposited in the Inmate Welfare Fund, and shall be used in the discretion of the Director for the general welfare of the inmates.

C. The Director shall direct and control the activities of the Department. Except as otherwise provided in this Order, and subject to applicable laws, rules, regulations, Commissioner's Orders and directives issued pursuant to Commissioner's Orders he shall have full authority over the Department and all functions, personnel, facilities and resources assigned to it. This includes authority to redelegate authority and assign personnel in such manner as in his judgment is necessary to establish and maintain effectiveness and efficiency of operations.

D. The Director may establish in the Department, under the major organizational components described herein, such subordinate components with specified functions as he deems appropriate, and thereafter may change, modify or abolish such subordinate components: *Provided*, That all such proposed actions shall be submitted, at least ten working days prior to the effective date of the actions, to the Executive Office for review as to conformance with applicable Commissioner's Orders and policies, and with sound principles of organization and management. Questions which cannot be resolved between the Executive Office and the Department concerned shall be referred jointly to the Commissioner.

PART IV

Organization and functions.—The Department of Corrections shall comprise the following major organizational

components in which responsible personnel shall perform the functions described.

A. Office of the Director.

1. Directs the development of, and recommends to the Commissioner, major correctional policies and programs, including necessary legislation and budgetary requirements.

2. Advises and assists the Commissioner on correctional matters, and represents him in coordinating correctional activities of the District of Columbia with those of Federal, State and local jurisdictions or other organizations.

3. Informs the public concerning Department activities.

4. Provides advisory services to other District agencies on correctional matters.

B. Associate Director for Planning and Research.

1. Under general administrative supervision of the Director, maintains liaison with Federal, State and local jurisdictions or other organizations on matters related to the Department's interests, including negotiation of agreements with such jurisdictions or organizations.

2. Performs, or coordinates the performance of, research and statistical studies conducted in, by, or for the Department, including negotiation and administration of contracts or other arrangements for research.

3. Performs, or coordinates the performance of, the planning and development of new or modified programs, organizations, systems (including automatic data processing systems), and standards.

4. Appraises existing and proposed correctional, industrial and administrative programs, organizations and systems, including objectives, policies, priorities and budgetary requirements, in order to evaluate the effectiveness and efficiency of their performance; monitors, on a sampling basis, the programs and progress of individual inmates.

5. Furnishes, upon request, technical advice and assistance to professional personnel in treatment, training, educational and related services.

6. Provides advice and assistance to the Director and other Department officials on matters related to correctional research, and the planning and development of an integrated correctional system, including necessary policies and legislation.

C. Associate Director for Administration.

1. Administers a comprehensive personnel management program, including position classification, recruiting, placement, training, employee development, employee-management relations, and related activities.

2. Administers a financial program, including coordination of preparation of budget estimates and justifications; develops and administers department-wide accounting policies, procedures, and standards; provides accounting services for the Department, including the Correctional Industries Fund; administers the Inmate Welfare Fund, inmate canteens, and inmate financial activities.

3. Provides information management and communications services, including maintenance and clerical or machine processing of records, reports and other data or statistics, and furnishes mail, messenger, telephone and radio services.

4. Administers procurement, supply, property management, and food management programs, including operation of warehousing facilities other than shop stores.

5. Administers a safety program.

6. Maintains liaison with the Executive Office on functions for which it is responsible.

7. Collaborates with the Associate Director for Planning and Research in developing or modifying programs in assigned areas of responsibility.

8. Provides technical advice and assistance to the Director and other officials on matters related to the personnel, fiscal, and other administrative management activities of the Department.

D. Associate Director for Institutional Services.

1. Administers departmental programs for the custody, care, development and assistance of inmates, including control, protection, evaluation, classification, treatment, training, education, health, recreation and related activities.

2. Supervises and coordinates the activities of the correctional institutions under the jurisdiction of the De-

partment, including inspection of facilities and investigation of inmate complaints.

3. Collaborates with the Associate Director for Planning and Research in the development or modification of programs within his area of responsibility.

4. Provides advice and assistance to the Director and other officials on matters related to the behavior and supervision of inmates, the operation of inmate programs, and the management of institutions.

E. Associate Director for Industrial Services.

1. Administers the construction, maintenance, and operation of buildings, public works, fixed and mobile equipment, and land of the Department; administers the Department's activities in the District of Columbia Six-Year Capital Improvement Program.

2. Administers the production, marketing and distribution of goods and services in industrial-type operations of the Department, and the trades training associated with them, including manufacturing, transportation, engineering, agriculture, and service trades; administers the Correctional Industries Fund.

3. Collaborates with the Associate Director for Planning and Research in the development or modification of programs within his area of responsibility.

4. Provides technical advice and assistance to the Director and other officials on matters related to the operation and management of physical facilities, public works, equipment, real property and industrial activities of the Department.

F. Associate Director for Community Services.

1. Administers departmental parole programs and community and residential programs for inmates, including treatment, education, custody, care and related activities. The parole program includes conditional release and out-of-state supervision cases, committed youth offender released conditionally, as well as parole cases.

2. Coordinates community and residential parolee, conditionally released committed youth offender and inmate programs with Federal, State and local jurisdictions or private organizations, such as labor unions, trade associations, businesses and church and civic groups.

3. Collaborates with the Associate Director for Planning and Research in the development or modification of programs within his area of responsibility.

4. Provides advice and assistance to the Director and other officials on matters related to the behavior, and supervision of parolees, conditionally released youth offenders, and inmates assigned to community or residential programs, the operation of community and residential programs, and the management of facilities and centers assigned to such programs.

PART V

Repeal of previous orders.—All Orders and parts of Orders of the former Board of Commissioners or Orders or parts of Orders of the Commissioner in conflict with any of the provisions of this Order are, to the extent of such conflict, hereby repealed, but nothing in this Order shall in any way alter, amend or repeal any District regulation adopted or promulgated by the former Board of Commissioners or by the District of Columbia Council.

PART VI

Effective date.—This Order shall become effective on and after December 27, 1967.

ORGANIZATION ORDER NO. 8.—DIRECTOR OF PUBLIC SAFETY¹

(Organization Ord. No. 8, Commissioner's Order No. 68-290, Apr. 18, 1968, amended Aug. 26, 1968.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ORDERED THAT:

PART I

Director of Public Safety.—There is hereby established, within the Executive Office of the Commissioner of the District of Columbia under the direction and control of the Commissioner, a Director of Public Safety.

PART II

Purpose.—The Director of Public Safety, as agent of the Commissioner, shall be responsible for directing and administering all functions assigned to the District of Columbia Police Department, the District of Columbia

Fire Department, and the Office of Civil Defense and coordinating them with the District of Columbia Department of Corrections and the Board of Parole. In addition, the Director of Public Safety shall serve as a liaison between the aforementioned Departments, Office and Board, the courts of the District of Columbia and the United States Department of Justice.

PART III

Functions.—The Director of Public Safety is responsible for:

A. Developing and implementing major plans, programs, and policies for the District of Columbia Police Department and directing and controlling all police programs, services and operations in the District of Columbia. Coordinating these programs with those of the Department of Corrections and with other state and local criminal justice agencies in the Washington Metropolitan Area, and with the Federal Government.

B. Developing and implementing major plans, programs and policies for the District of Columbia Fire Department and directing and controlling all fire prevention and fire fighting programs, services and operations in the District of Columbia. Coordinating these programs with those of state and local fire prevention and fire fighting agencies in the Washington Metropolitan Area and with the Federal Government.

C. Developing and implementing major plans, programs and policies for providing civil defense and major disaster protective and relief measures within the District of Columbia. Coordinating these programs with those of other state and local civil defense agencies in the Washington Metropolitan Area and with the Federal Government.

D. Prescribing the workweek, hours of duty, days off, and holidays for officers and members of the District of Columbia Fire Department, including members of the Firefighting Division of that department.

The authority delegated herein shall not be exercised by any officer or employee of the Government of the District of Columbia, other than the Director of Public Safety, except upon the specific, written redelegation of such authority by the Director of Public Safety.

This order [Dated, Aug. 26, 1968, adding this par.] shall be effective immediately.

PART IV

Revocations and abolitions.—The Organization and Reorganization Orders of the former Board of Commissioners Numbers 31 (Police and Firemen's Retirement and Relief Board, April 30, 1953, as amended), 33 (Board of Parole, May 28, 1953, as amended), 38 (Fire Department, June 18, 1953, as amended), 39 (Fire Trial Boards, June 18, 1958, as amended), 47 (Board of Police and Fire Surgeons, June 26, 1953, as amended), 48 (Police Trial and Review Boards, June 26, 1953, as amended), 49 (Office of Civil Defense, June 26, 1953, as amended), 117 (Commissioners' Advisory Council on Fire Prevention, October 4, 1956, as amended), 118 (Emergency Ambulance Service Committee, August 27, 1957, as amended), 152 Supplement (Procedure for Investigation of Alleged Employee Wrongdoing, October 4, 1966), 153 (Metropolitan Police Department, November 10, 1966), 154 (Department of Corrections, February 7, 1967) and 155 (Correctional Advisory Council, February 7, 1967) to the extent that they are inconsistent with this Order, but only to that extent, are hereby revoked.

PART V

Effective date.—The provisions of this Order shall be effective April 18, 1968.

¹ ABOLITION OF OFFICE

Sec. 801, act Oct. 31, Pub. L. 91-106 provided: "The office of Director of Public Safety in the Executive Office of the Commissioner of the District of Columbia (created by Organization Order Numbered 8, dated April 18, 1968) is abolished. No funds appropriated for the government of the District of Columbia and no grant or loan by any department or agency of the United States Government to the government of the District of Columbia may be used to establish any similar office in the government of the District of Columbia to carry out any of the functions delegated to the Director of Public Safety by such order."

ORGANIZATION ORDER NO. 9.—CONTRACTING OFFICERS

(Organization Ord. No. 9, Commissioner's Order No. 68-399, June 6, 1968, as amended Dec. 4, 1968, and Apr. 24, 1969, Nov. 14, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, IT IS ORDERED:

Organization Order No. 9 of June 6, 1968, as amended, is hereby further amended and reissued in its entirety to read as follows:

PART I

Appointment of contracting officers.—A. The officials occupying each of the following positions are hereby appointed Contracting Officers for the District of Columbia, subject to all applicable laws, rules, regulations, policies, standards, systems and procedures, and such instructions as the Commissioner or his designee may from time to time give:

- (1) Director, Department of General Services;
- (2) Director, Department of Highways and Traffic;
- (3) Director, Department of Sanitary Engineering;
- (4) Director, Department of Economic Development;
- (5) Chairman of the Board for the Condemnation of Insanitary Buildings;
- (6) Director, Department of Public Health;
- (7) Director, Department of Vocational Rehabilitation;
- (8) Director, Department of Corrections; and
- (9) Director, Department of Public Welfare.

B. Each Contracting Officer is authorized to redelegate such of the authorities herein delegated to him to other officials under his administrative control to act as Contracting Officers for such purposes and subject to such limitations as he may designate in writing, a copy of which writing shall be filed in his office and in the office of the Director of Finance and Revenue. The Contracting Officer designated in Part I, A(1) is authorized to redelegate portions of the authorities herein delegated to him to departments and agencies as in his judgment are warranted for reasons of administrative efficiency and effective management subject to such criteria, standards, and restrictions as he may determine.

PART II

Authority of contracting officers.—A. Each Contracting Officer is authorized to enter into and administer contracts and issue change orders under such contracts on behalf of the District of Columbia, including approval of performance bonds when required, as follows:

- (1) The Contracting Officer designated in Part I, A(1) with respect to (a) all supplies, materials, equipment and services for all departments and agencies of the District except as provided elsewhere herein; (b) the acquisition by purchase of real property, demolition of improvements on real property, managing, inleasing, outleasing or disposing of real property, and the installation of snack bars and vending facilities on District-owned or leased properties; and (c) the sale of surplus personal property, supplies, equipment and scrap materials.

- (2) Each Contracting Officer designated in Part I, A(1) through I, A(3) with respect to (a) consulting, architect-engineer and construction contracts (including alteration and repair) determined to be necessary for the proper performance of all types or classes of work now and hereafter placed under his supervision; and (b) supplies, materials or equipment, the furnishing of services, or the performance of construction, in amounts not exceeding \$50,000 when the public exigencies require the immediate delivery, furnishing or performance of the same, PROVIDED that a certification as to the nature of the emergency and justification for such purchase or contract be made in writing and filed with the Contract Review Committee within seventy-two (72) hours after said purchase or award of said contract.

- (3) The Contracting Officer designated in Part I, A(4) with respect to (a) taking down, removing or otherwise making safe unsafe structures or excavations in accordance with the Unsafe Structures Act of March 1, 1899, as amended, Sec. 5-501 to 5-508, D.C. Code, 1967 ed.; and (b) construction or installation of means of egress or other appliances in accordance with the provisions of the Means of Egress Act of December 24, 1942, Secs. 5-317 to 5-323, D.C. Code, 1967 ed.

- (4) The Contracting Officer designated in Part I, A(5) with respect to repairs, changes or demolition and removal of insanitary buildings in accordance with the Act to Create a Board for the Condemnation of Insanitary Buildings of May 1, 1906, as amended, Secs. 5-616 to 5-631, D.C. Code, 1967 ed.

- (5) The Contracting Officer designated in Part I, A(6) with respect to contract hospitals and medical vendors and services under the Medical Assistance Program for the District of Columbia (Medicare and Medicaid, Titles XVIII and XIX, Social Security Act).

- (6) The Contracting Officer designated in Part I, A(7) only with respect to (a) services of a professional, technical and scientific nature provided by institutions or individuals to physically handicapped persons participating in the programs of the department; and (b) appliances or such other specialized items as may be peculiar to the vocational rehabilitation program.

- (7) The Contracting Officer designated in Part I, A(8) only with respect to the sale to the various departments of the District of Columbia and Federal Governments, to any State or sub-division of a State, or any Commonwealth, Territory or possession of the United States, of products and services produced by the Industries Division of the Department of Corrections.

- (8) The Contracting Officer designated in Part I, A(6) and Part I, A(9) with respect to construction and repair of District Government-owned buildings provided the building is under their exclusive control, and the amount of the contract does not exceed \$5,000.00.

B. (1) All contracts and change orders shall be subject to the following:

- (a) Certification by the Director of Finance and Revenue or his designee, that they are correct and proper for payment in the verified amount;

- (b) Determination as to legal sufficiency in such manner as meets the requirements of the Corporation Counsel, D.C., and

- (c) In the case of each contract in excess of \$5,000,000, approval of the executed formal contract by the Commissioner or his designee.

- (2) Bids, proposed contracts and proposed change orders coming within the criteria in Part IV (B) (1), (2), (3), and (4) shall be submitted to the Contract Review Committee for review and recommendations as provided in Part IV hereof.

- C. (1) The Contracting Officer designated in Part I, A(1) is authorized to determine that capital outlay funds appropriated for public building construction services may be utilized to pay for services by architect-engineer contracts or by departmental personnel.

- (2) Each Contracting Officer designated in Part I, A(1) through (3) is authorized to determine whether repair and improvements projects shall be performed under contracts or by department personnel (force account).

- (3) The Director of Corrections, D.C., in collaboration with the Director, Department of General Services, or his designee, is authorized to determine the fair market prices to be charged by the Department of Corrections for products and services of the Industrial Enterprises of the D.C. Workhouse and Reformatory. Should the Director of Corrections and the Director of General Services fail to agree as to the fair market price of any such product or services, their respective recommendations, with reason therefor, shall be submitted to the Contract Review Committee for decision.

- (4) Whenever 50 per centum of the work required under a contract for construction has been completed and payments therefor have been made, the Contracting Officer may authorize subsequent payments to be made to the Contractor without withholding from such subsequent payments 10 per centum thereof as required by Section 1-807, D.C. Code, 1967 ed. or the said Contracting Officer may authorize retention from such subsequent payments of less than 10 per centum thereof and whenever the work is substantially complete, the contracting officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the District of Columbia, may, in his discretion, release to the contractor all or a portion of such excess amount; and the said Contracting Officer may further authorize payment in full, including retained percentages for each

separate building or public work on which the price is stated separately in the contract upon completion and acceptance of such building or work.

PART III

The Director of General Services.—The Director of General Services or his designee shall:

A. Collaborate with Contracting Officers in developing and implementing effective contracting procedures which are designed to expedite the work of the Contracting Officers.

B. Perform centralized services in connection with contract administration for departments and offices of the District of Columbia Government, such as advertising for competitive bids, opening and tabulating bids, preparing formal contracts and bonds after awards are made by the authorized Contracting Officer, and assisting in the preparation of all types of contractual documents.

C. Obtain necessary wage rate schedules from the U.S. Department of Labor and notify all Contracting Officers of changes when and as they occur.

D. Represent the District of Columbia Government in all relationships with Federal Agencies concerning procurement matters, including negotiations or agreements for cooperative procurement programs.

PART IV

Contract Review Committee.—A. There is hereby established a Contract Review Committee consisting of the following: (1) an Assistant Corporation Counsel and an alternate to be designated by the Corporation Counsel, who shall serve as Chairman; (2) a representative and an alternate representative of the Department of Finance and Revenue to be appointed by the Director; and (3) one Contracting Officer appointed or provided for herein to be designated by the Chairman. The Chairman of the Contract Review Committee shall select, on a rotating basis, one Contracting Officer or his designated Alternate Contracting Officer, other than the Contracting Officer negotiating the contract or change order under consideration to serve as the third member of the Committee. Whenever the Contract Review Committee is to consider a contract for construction or architect-engineer services, the third member shall be one of the Contracting Officers listed in Part I, A (1) through (3). The Committee shall develop its own procedure for the conduct of business.

B. The Contract Review Committee shall review and make recommendations to Contracting Officers on the following:

(1) Bids regardless of dollar amount where a Contracting Officer proposes to award a contract to a bidder other than the bidder submitting the lowest bid.

(2) Bids regardless of dollar amount where a Contracting Officer proposes to award a contract of a nature which involves a payment to the District where it is proposed to accept other than the highest bid.

(3) Negotiated contracts (except those designated in Part II, A(1)(b), A(4) and A(5) in excess of \$25,000 where such contracts cover personal services, consultant services, architect-engineer services, and any other forms of contract involving negotiations as to price between the Contracting Officer and the Contractor. The Committee shall develop and issue standards and procedures for negotiated contracts and shall review such contracts to assure compliance with established negotiated procedures.

(4) Proposed contract change orders in excess of \$100,000.

(5) Plea of error made by bidder.

(6) Requests of bidders who wish to withdraw bids.

(7) All protests received from bidders or prospective bidders.

C. In those instances where the Committee does not concur in the action recommended by a Contracting Officer and the Contracting Officer concerned does not agree with the recommendations of the Committee, the matter shall be presented by the Committee to the Assistant to the Commissioner (Deputy Mayor) or his designee for determination. This procedure shall not be construed to relieve the Contracting Officer of his responsibility for entering into and administering the contract involved.

PART V

Contract Advisory Committee.—A. There is hereby established a Contract Advisory Committee consisting of (1) the Director, Department of General Services, or his designee, who shall serve as Chairman; (2) the Director, Department of Highways and Traffic, or his designee, who shall serve as Alternate Chairman; and (3) such other members as the Chairman from time to time shall select from among the various District Government Contracting Officers designated or provided for in Part I hereof. Any three members of the said Committee shall constitute a quorum for the transaction of business. The Committee shall develop its own procedures for the conduct of business.

B. The purpose of the Contract Advisory Committee is to make available to the Commissioner, or his designee, and the Contracting Officers appointed by the Commissioner, assistance and advice on contracting matters, including the area of contracting authority herein delegated to each Contracting Officer. The Contract Advisory Committee is authorized to make any change in the basic language of the standard contract by a majority vote of such Committee, subject to the approval of the Corporation Counsel.

PART VI

Contract Appeals Board, D.C.—A. There is established a Contract Appeals Board, D.C., consisting of one or more Assistant Corporation Counsel designated by the Corporation Counsel, one of whom shall serve as Chairman of the Board, and two or more persons appointed or designated by the Commissioner from among officers assigned to the Corps of Engineers and detailed to assist the Commissioner pursuant to Sec. 503(b) of Reorganization Plan No. 3 of 1967, or from among active or retired District of Columbia officers and employees who have had practical experience in the administration of government contracts. Except as otherwise provided by its rules, all business of the Board shall be conducted by panels of not less than three members at least one of whom shall be an Assistant Corporation Counsel member, but any two members of a panel shall constitute a quorum for the transaction of any business of the Board.

No person shall serve as a member of a panel in the decision of any case in which the appeal has been taken from the action of a Contracting Officer or Alternate Contracting Officer of the department of which he is, or at the time of his retirement was, the Director or an employee, or in which he has participated directly in any aspect of the award or administration of the contract involved.

B. The functions of the Contract Appeals Board shall be to hear, to review, and to decide upon all protests and appeals from actions by Contracting Officers where the Contracting Officer is unable to satisfy the Contractor that the action taken was a proper action, and such other contractual appeals, or classes thereof, as the Commissioner may from time to time order. Upon request of the Contractor or of the Contracting Officer, and with the consent of the other, the subject matter of an appeal shall be remanded to the Contracting Officer, who shall thereupon reconsider his appealed decision, and upon such remand the appeal shall be dismissed. The decision of the Contract Appeals Board in every case shall be final subject to such limitations and review as may be provided by law.

C. The Contract Appeals Board is authorized to prescribe rules of practice and procedure, including the establishment of time limitations and the development of methods of perfecting appeals to it.

D. The Chairman of the Contract Appeals Board shall, from time to time, assign members to panels of the Board, shall be responsible for obtaining the necessary secretarial assistance for the Board and for maintaining centralized custody over all records of the Board, and may, from time to time, designate a member to serve as acting chairman during his own absence, disqualification or disability.

E. The activities of the Board shall be considered investigations or examinations of municipal matters within the meaning of the Act of July 1, 1902 (D.C. Code,

1967 ed., Sec. 1-237), and the members of said Board shall possess the powers vested in the Commissioners by said Act of July 1, 1902.

PART VII

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 10.—DEPARTMENT OF RECREATION

(Organization Ord. No. 10, Commissioner's Order No. 68-440 June 27, 1968; amended Aug. 6, 1968, and Oct. 3, 1968.)

WHEREAS, by Section 2 of Reorganization Plan No. 3 of 1968, all of the functions of the Recreation Board, its Chairman and members, and all of the functions of the Superintendent of Recreation were transferred to the Commissioner of the District of Columbia, and the Recreation Board, together with the position of Superintendent of Recreation, was abolished; and

WHEREAS, Section 5 of said Reorganization Plan further provided that the Commissioner shall make such provisions as he may deem necessary with respect to winding up the outstanding affairs of the Recreation Board and the Superintendent of Recreation; and

WHEREAS, certain by-laws, rules and regulations had heretofore been adopted by the Recreation Board to govern its activities and it is necessary and desirable to assure continuity in and to provide for an orderly transition of the functions, operations and acts heretofore performed by the Recreation Board as previously constituted and by the Superintendent of Recreation.

NOW, THEREFORE, by virtue of the authority vested in me by Reorganization Plan No. 3 of 1968, it is hereby ORDERED THAT:

PART I

Department of Recreation.—There is hereby established under the direction and control of the Commissioner of the District of Columbia a Department of Recreation, headed by a Director of Recreation. The Commissioner shall have full authority over such Department and Director and over all personnel assigned to such Department.

There are hereby transferred to the Department of Recreation the functions, including the duties, powers and authorities of all officers assigned to, and all positions, personnel, property, records and unexpended balances of appropriations, allocations and other funds available to the Recreation Department as it existed immediately prior to the effective date of Reorganization Plan No. 3 of 1968.

PART II

Rules and regulations.—The by-laws, rules and regulations of the previously constituted District of Columbia Recreation Board, to the extent not inconsistent with Reorganization Plan No. 3 of 1968 and this Order, shall remain in full force and effect, until modified or amended, and shall govern the activities of the Department of Recreation and its Director.

PART III

Prior activities ratified.—All official actions of the previously constituted Recreation Board and its Superintendent heretofore authorized, taken or adopted, are in all respects ratified and confirmed.

PART IV

Community Recreation Advisory Board.—There is hereby established a Community Recreation Advisory Board comprising fifteen members, as follows:

Five citizen members, of whom, for the initial appointments under this Order, two shall be members of the former Recreation Board

Three members representing the youth of the community

One member representing Arts and Culture

President of the Inter-Property Tenant Council

Chairman of the Recreation Subcommittee of the D.C. City Council

President of the D.C. School Board

Regional Director, National Capital Park Service

President of the Board of Trade

A member of one of the Neighborhood Planning Councils

The purpose of the Community Recreation Advisory Board is to increase citizen participation and involvement in the city's recreation program and to act in an advisory capacity to the Mayor-Commissioner and the Director of Recreation on matters affecting the leisure interests of the citizens of Washington, D.C.

It is the intent of the Mayor-Commissioner that the Community Recreation Advisory Board shall in general advise and assist the Mayor-Commissioner and the Director in the following respects:

- (a) Advise the Mayor-Commissioner and the Department of Recreation on matters affecting the Department of Recreation;
- (b) Advise the Mayor-Commissioner and the Director of Recreation on all matters referred to the Board, or on other matters independently studied or investigated by it on its own initiative;
- (c) Keep the Mayor-Commissioner and the Director of Recreation informed of public sentiment on recreation matters by conducting studies and holding public hearings as needed;
- (d) Assist the Mayor-Commissioner and the Director of Recreation in interpreting the Recreation Program and Policies to the general public;
- (e) Advise the Mayor-Commissioner and the Director of Recreation on the need for new or improved services at all levels of the program;
- (f) Make recommendations on the Recreation Department's Budget requests to the Mayor-Commissioner and the Director of Recreation;
- (g) Aid in stimulating public interest, understanding, and participation of the community in solving public recreation problems.

Members shall serve without compensation and shall be appointed for a term of two years, except that for the initial appointment of the adult and youth citizen members, three shall be for two years and three shall be for one year as determined by the Mayor-Commissioner. Should a vacancy occur, a successor shall be appointed to complete such unexpired term.

Except for the Chairman, who shall be appointed by the Mayor-Commissioner, the membership of the Board shall determine its own organization, select its officers, establish committees, adopt rules of procedure. The Board shall meet at least once a month with a majority of the meetings scheduled in the community. Additional meetings may be held at the call of the Mayor-Commissioner, Director of Recreation, its Chairman, or a majority of its membership. The Board is authorized, at its discretion, to release to the press and the general public its reports and recommendations. All Board meetings are open to the press and the general public.

PART V

Effective date.—The provisions of this Order shall be effective at the time that the provisions of Reorganization Plan No. 3 of 1968 take effect.

ORGANIZATION ORDER NO. 11.—MAYOR'S ECONOMIC DEVELOPMENT COMMITTEE

(Organization Order No. 11, Commissioner's Order No. 68-524, Aug. 6, 1968)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is hereby ORDERED THAT:

There be established in the Government of the District of Columbia the Mayor's Economic Development Committee.

PART I

Policy.—The Government of the District of Columbia dedicates itself to the development of a realistic set of goals, objectives, and methods for improving the total economic and social well-being of the District by promoting economic growth; creating meaningful employment opportunities; promoting opportunities and financial assistance for business, including those sponsored by individuals and groups living in the neighborhoods; exploring ways and means of producing greater tax revenues; constantly improving buyer-seller relationships; maintaining good community relations; and, keeping the citizens informed with respect to all phases of the city's economic development program.

PART II

Purpose.—Subject to the approval of the Commissioner, the primary purpose of the Mayor's Economic Development Committee shall be to coordinate and serve as the prime mover toward the attainment of the policy set out in Part I.

PART III

Functions.—The Committee shall:

1. Develop an overall economic development program for the District of Columbia.
2. Develop a permanent organizational structure for economic development within the District of Columbia.
3. Marshal the human and economic resources of the city to provide the opportunity for economic security for the citizens of the District of Columbia.
4. Provide private enterprise with the maximum opportunity to make a significant contribution to the growth and development of the District of Columbia.
5. Work toward the establishment of a unified comprehensive and effective economic development program for the Metropolitan Washington Area.
6. Review all applications and proposals to public agencies which have a significant effect on the economic development of the District of Columbia, and make recommendations concerning same.
7. Have the power to take any steps set forth in the "Scope of the Committee" in the "Guide for Overall Economic Development Programs" (U.S. Department of Commerce, November 1967).
8. Perform such other functions as the Commissioner may place before the Committee.

PART IV

Composition and membership:

1. The Economic Development Committee shall consist of a Chairman who shall be named by the Commissioner and such other persons as the Commissioner shall name.
2. The Chairman shall serve for a period of three years.
3. The terms of office of members of the Committee shall be three years, except that of the persons first appointed as members of the Committee. One-third of them shall serve for one year, one-third for two years, and one-third for three years. The terms of office for the members of the First Committee shall be determined by lottery.
4. Interim staff assistance shall be furnished by the Office of Community Renewal and/or such other agencies as the Commissioner shall designate until such time as the Committee establishes its own permanent staff.
5. The Economic Development Committee shall determine its own rules and procedures, and establish and fill such additional officer positions from its membership as it may deem appropriate.

PART V

Effective date.—This order shall be effective on and after Wednesday, August 7, 1968.

ORGANIZATION ORDER NO. 12.—POLICE AND FIREMEN'S RETIREMENT AND RELIEF BOARD

(Replacement for Reorg. Ord. No. 31)

(Organization Order No. 12, Commissioner's Order No. 68—531, Aug. 6, 1968)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ordered that Reorganization Order No. 31 of April 30, 1953—Police and Firemen's Retirement and Relief Board—be redesignated as Organization Order No. 12, and amended to read as follows:

PART I

Police and Firemen's Retirement and Relief Board:

1. There is established in the Government of the District of Columbia, under the administrative supervision of the Personnel Officer, Executive Office of the Commissioner, a Police and Firemen's Retirement and Relief Board, to be composed of the following: the Personnel Officer, the Director of Public Health, the Corporation Counsel, the Chief of Police and the Fire Chief.
2. In all cases of relief and retirement of members of the U.S. Park Police force, a member of the U.S. Park Police force, designated by the Superintendent, National Capital Parks, may sit as a member of the Police and Firemen's Retirement and Relief Board.

3. In all cases of relief and retirement of members of the White House Police force, or of members of the U.S. Secret Service, who contribute to the Policemen and Firemen's Relief Fund of the District of Columbia; a member of the White House Police force, or a member of the U.S. Secret Service as appropriate, designated by the Chief, U.S. Secret Service, may sit as a member of the Police and Firemen's Retirement and Relief Board.

4. Each member of the said Board is authorized to designate an alternate representative, or representatives, from among officials and employees within his organization, to exercise, at the meeting of the Board, all the powers vested in the respective member, except that no more than one alternate for each member shall participate at a single Board meeting. Each such alternate shall be a senior assistant of the member concerned.

5. The Personnel Officer shall serve as Chairman of the said Board, and the Director of Public Health shall serve as Vice-Chairman; and in the absence of both, the authorized alternate to the Personnel Officer shall serve as Chairman; and in his absence, the alternate to the Director of Public Health shall serve as Chairman.

6. All authorities and powers exercised by members of the Police and Firemen's Retirement and Relief Board, including those individuals who are designated, from time to time, as alternate members, shall be in accordance with applicable laws, rules and regulations.

PART II

Purpose and scope.—The Police and Firemen's Retirement and Relief Board is established for the purpose of insuring that fair and equitable policies and practices are established and applied in connection with the retirement and the relief of members of the:

1. Police and Fire Departments of the District of Columbia;
2. U.S. Park Police force;
3. White House Police force; and the
4. U.S. Secret Service, who contribute to the Police and Firemen's Retirement and Relief Fund of the District of Columbia.

PART III

Functions.—The functions of the Police and Firemen's Retirement and Relief Board shall be to:

1. Consider all cases for the retirement and the relief of the members listed in Part II; consider all cases of retirees of said organization who are seeking an increase in the pension relief allowance which they are already receiving; consider all cases of retirees of said organization who are required to undergo periodic medical examinations in connection with determining whether the relief allowance in such cases should be continued, increased, decreased, or discontinued; and consider all applications for the relief of widows and children under 18 years of age of said members.

2. Approve, or disapprove, all such cases, and fix the amount of pension relief in each instance, as appropriate, except that proposed actions in connection with the relief or the retirement of the Chief of Police and the Fire Chief shall be submitted to the Commissioner for his approval, or disapproval; and provided that, at all times, any action taken by the Retirement and Relief Board shall be subject to review by the Board of Appeals and Review, including final authority to concur in, reject, modify, or reverse such action.

3. Develop overall policies to insure equitable treatment in the retirement and the relief of individuals coming within the purview of the Police and Firemen's Retirement and Relief Board; and serve in an advisory capacity to the Commissioner and heads of departments and offices in all matters pertaining to the retirement and the relief of such individuals.

4. Perfect and adopt rules of procedure for the conduct and guidance of the Police and Firemen's Retirement and Relief Board.

(See attachment for procedural rules that apply to all appeals from decisions of the Police and Firemen's Retirement and Relief Board.)

PART IV

Eligibility for retirement and survivor annuities:

1. The Police and Firemen's Retirement and Relief Board established herein is hereby designated as agent

of the Commissioner, to make all findings of fact necessary in the determination of eligibility for retirement and survivor annuities pursuant to Public Law 85-157, 85th Congress, as approved August 21, 1957, and to take final action in such cases subject herein to provisions for review set forth here.

2. In making such findings of fact the Board shall consider the written opinion submitted to it by the Board of Police and Fire Surgeons concerning the physical or mental condition, or both, of the member for whom involuntary separation or retirement is sought, together with all records and testimony of the Board of Police and Fire Surgeons relating to such member, and such records and testimony of any other person bearing on the matter before the Police and Firemen's Retirement and Relief Board.

3. The authority set forth in subsection (i) of the Policemen and Firemen's Retirement and Disability Act (P.L. 85-157; sec. 4-529, D.C. Code, 1967 ed.) to express a judgment as to the disability of a member from performing further duty in his department is hereby delegated exclusively to the Police and Firemen's Retirement and Relief Board.

PART V

Subpoena powers.—The Police and Firemen's Retirement and Relief Board is authorized and empowered to summon any person before it to give testimony, under oath or affirmation, as to any matter affecting retirement or relief of any individual whose retirement or relief is being considered; and any member of the said Board shall have power to administer oaths or affirmations to witnesses appearing before it. Such summons shall be served by a member of the Metropolitan Police or Fire Departments.

PART VI

Secretarial assistance.—The Chairman of the Police and Firemen's Retirement and Relief Board shall be responsible for arranging for necessary secretarial assistance for the Board, and for seeing that reports and records are prepared and maintained in connection with meetings held, findings and recommendations made, and actions taken.

PART VII

Repeal of previous orders.—All Commissioners' Orders, or parts of Commissioners' Orders in conflict with the provisions of this Order are, to the extent of such conflict, hereby repealed. Also repealed is Commissioners' Order No. 60-2394 of November 22, 1960, concerning Appeals.

PART VIII

Effective date.—This order shall become effective upon receipt.

ORGANIZATION ORDER NO. 13.—HACKERS' BOARD

(Organization Order No. 13, Commissioner's Order No. 68-559, Aug. 15, 1968)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ordered that Organization Order No. 107, dated May 17, 1955, as amended, is hereby redesignated as Organization Order No. 13, and is hereby amended to read as follows:

PART I

The Board of Revocation and Review of Hackers' Identification Cards, established by Reorganization Order No. 54, dated June 30, 1953, as amended, shall be responsible to the Commissioner but shall hereafter be known as the Hackers' License Appeal Board, with the short title of Hackers' Board.

PART II

1. *Membership.*—The Hackers' Board shall consist of five (5) members, namely:

a. An employee in the Permit Control Division, Department of Motor Vehicles, designated from time to time by the Director, Department of Motor Vehicles, and such member shall be Chairman of said Board.

b. A member or an advisor of the Citizens' Traffic Board (hereinafter, Traffic Board), assigned as provided in paragraph 3 a and b of this part and compensated as provided in paragraph 4 of this part.

c. Two attorneys designated as provided in paragraph 3c and 3d of this part and compensated as provided in paragraph 4 of this part.

d. A member holding a valid identification face as a public driver, under the jurisdiction of the Hackers' Board, assigned as provided in paragraph 3e and 3f of this part and compensated as provided in paragraph 4 of this part.

2. *Quorum.*—Three members shall constitute a quorum, one of whom shall be one of the two attorney members.

3. *Designation, appointment, and assignment:*

a. The Executive Secretary of the Traffic Board shall keep the Chairman of the Hackers' Board currently advised of the names of the members of the Traffic Board who are willing to serve as members of the Hackers' Board, and the Chairman shall maintain a list of such members.

b. The Chairman of the Hackers' Board shall assign, in rotation, Traffic Board members on said list to sit in specified cases or at specified times.

c. The President of the Bar Association of the District of Columbia and the President of the Washington Bar Association of the District of Columbia shall each submit to the Commissioner the names of not less than sixteen (16) members of such Associations who are willing to serve as members of the Hackers' Board and whom the respective Presidents nominate for appointment to said Board. The Commissioner shall, annually, make a selection of sixteen (16) attorneys to serve as members of the said Hackers' Board, each of whom shall serve until his successor is appointed and each of whom shall be subject to removal by the Commissioner. After the said appointees have taken the oath of office, the Executive Secretary to the Commissioner shall furnish to the Chairman of the Hackers' Board the names of the attorney members selected by the Commissioner.

d. The Chairman of the Hackers' Board shall assign in rotation, attorneys on said list to sit in specified cases or at specified times.

e. The Commissioner shall annually select a panel of eight (8) public vehicle drivers from a list of nominations provided by taxi associations, fleets, and independents or from among any other public vehicle drivers considered qualified by the Commissioner. Those nominated by taxi associations, fleets, or independents shall consist of persons who are willing to serve as members of the Hackers' Board. Those selected by the Commissioner for appointment to said Board shall serve until their successors are appointed but shall be subject to removal by the Commissioner. Not more than one nomination shall be made by any taxi association or fleet. Representation among the eight (8) members on said panel shall be distributed as follows: four (4) from taxi associations, three (3) from fleets, and one (1) from the independents or other public vehicle drivers. After said appointees have taken the oath of office, the Executive Secretary to the Commissioner shall furnish to the Chairman of the Hackers' Board a list of the hackers selected by the Commissioner.

f. The Chairman of the Hackers' Board shall assign in rotation, hacker appointees to sit in specified cases or at specified times.

4. *Oath and compensation.*—The members of the Traffic Board, the attorney members, and the member selected from the class of public vehicle drivers to serve on the Hackers' Board shall be intermittent employees of the District of Columbia; shall take the oath of office prescribed for civil employees of the District of Columbia; and shall receive compensation when actually performing services as members of the Hackers' Board.

5. *Assistant Corporation Counsel to serve as legal advisor.*—The Corporation Counsel shall designate an Assistant Corporation Counsel to serve as the legal advisor to the Hackers' Board.

6. *Conflict of interest.*—A member of the Hackers' Board shall temporarily disqualify himself from sitting on a matter pending before the Hackers' Board when that member is associated with the appellant or respondent in any way, either directly or through a partnership, association, company or similar organization or as an attorney, representative, officer, or advisor.

PART III

1. *Functions and responsibilities.*—Functions and responsibilities of the Hackers' Board shall be as follows:

a. To consider appeals from adverse decisions on applications for licenses submitted in accordance with the requirements of D.C. Code, Section 47-2331 (e) and (j) (1967 ed.), and to affirm such decisions, or approve such applications.

b. To determine whether a complaint against an individual licensed in accordance with the requirements of D.C. Code, Section 47-2331 (e) and (j) (1967 ed.), justified the suspension or revocation of such license under the authority contained in D.C. Code, Section 47-2345 (a) (1967 ed.), and if such action be justified to suspend or revoke such license.

c. To recommend to the Commissioner changes in criteria or standards to be applied in the denial of applications submitted in accordance with the requirements of D.C. Code, Section 47-2331 (e) and (j) (1967 ed.), and in the suspension or revocation of such licenses under the authority of D.C. Code, Section 47-2345 (a) (1967 ed.).

2. The activities of the Board shall be considered investigations or examination of municipal matters within the meaning of D.C. Code, Section 1-237 (1967 ed.), and the Board shall possess the powers vested in the Commission by said section.

3. The procedures of the Board shall be in accordance with such rules as may be prescribed by the Corporation Counsel, and the Corporation Counsel is hereby authorized to prescribe, and from time to time amend, rules governing the procedures of the Board, including the establishment of time limitations where not otherwise set forth, and the development of methods of perfecting appeals to the Board.

4. The decisions of the Board pursuant to paragraph 1 of this part shall be final, except in any case in which the Board shall prescribe a waiting period of five (5) years or longer before an appellant may again apply for a license, the appellant may appeal to the Commissioner in accordance with the rules of practice and procedure prescribed for the Board.

PART IV

The Department of Motor Vehicles shall provide the necessary administrative services for the Hackers' Board.

PART V

This Order shall become effective thirty (30) days from the date hereof.

ORGANIZATION ORDER NO. 14.—HEALTH PLANNING ADVISORY COMMITTEE

(Replacement for Organization Order No. 142, 64-194; Organization Order No. 14, Commissioner's Order No. 68-612, Sept. 19, 1968, as amended Mar. 7, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ordered that Organization Order No. 142, 64-194 of February 1964, as amended, be hereby redesignated as Organization Order No. 14 and read as follows:

PART I

Purpose.—The District of Columbia Health Planning Advisory Committee is established to act in an advisory capacity to the Director of Public Health and to enable advisory participation concerning comprehensive health planning, the construction and regulation of hospitals, medical and related facilities, public health programs and other matters affecting the health of residents of the District of Columbia.

PART II

Functions.—The District of Columbia Health Planning Advisory Committee shall serve to alert the Director of Public Health (and through the Director of Public Health, the Commissioner) to changing and emerging health problems and developments throughout the District of Columbia, and shall facilitate communication and cooperation among agencies, organizations, the professions, and the public in developing recommendations for solutions to these problems. The Committee shall consult with and advise the Director of Public Health concerning:

1. Comprehensive planning as it will be carried out under the District Planning Program in conformity with the requirements of Title 42, U.S. Code (1964 ed., Supplement II), Section 246.

2. The community's requirements for hospitals and other types of health and medical facilities, construction and modernization programs for the District, and proposals for construction, operation and utilization of hospitals and other medical facilities, public or private, within the District (except Federal facilities) financed in whole or in part from public funds through reimbursement or other processes, including the location, type and size of facilities and the services to be provided.

3. The public health and medical care needs and requirements and programs designed to meet such needs and requirements.

4. The coordination of the programs and activities of the Department of Public Health with those of other District departments and agencies, voluntary agencies, community groups and associations, and professional organizations.

5. The interpretation of the activities and responsibilities of the Department of Public Health to the community and the stimulation of interest, understanding and participation by the community in the development of measures for the solution of health problems; proposals for new, or revision of existing policies, regulations, or statutes that affect the public health or the responsibilities of the Department.

6. The general review of the budget, programs, operations, and activities of the Department of Public Health in light of the District's plan for Comprehensive Public Health Services, recommendations adopted under its Comprehensive Health Planning Program and suggestions for modification indicated by such review.

PART III

Composition and membership.—The Committee shall consist of twenty-nine (29) members appointed by the Commissioner of the District of Columbia from a list of persons submitted by the Director of Public Health, on the basis of personal qualifications as a consumer (as defined in the Federal Comprehensive Health Planning Regulations), affiliation with a non-governmental group or organization concerned with health, or official position in the District of Columbia or Federal Government. Persons appointed to membership and agencies represented on the Committee shall be selected insofar as possible in such a way as to provide in the aggregate a maximum degree of perspective upon and insight into the health services, health manpower and health facilities, needs and desires of the community. To the extent possible, the selection of consumer members shall be based upon considerations which result in an equitable apportionment of representation in terms of geographic, racial and economic factors.

The committee shall be made up of three groups as follows:

1. *Representatives of government agencies.*—Four (4) representatives shall be selected from those nominated by the District of Columbia departments having responsibilities in the health field, other than the Department of Public Health. One of the four Government representatives may be selected from among those nominated by Federal Government agencies located in the District of Columbia and concerned with health problems.

Each department shall have one and only one representative, who shall serve as the department's representative, rather than in his individual capacity.

2. *Representatives of non-governmental organizations and groups concerned with health.*—Ten (10) representatives shall be selected from the non-governmental organizations or groups concerned with the physical, environmental or mental health problems and activities in the District of Columbia. These representatives must be residents of the District of Columbia.

3. *Representatives of consumers of health services.*—Fifteen (15) representatives shall be selected from consumers of physical, environmental or mental health services in the District of Columbia and shall reflect to the extent possible, the geographic, racial and economic composition of the population of the District of Columbia and shall include representatives selected from business-oriented non-profit organizations or groups interested in

the health problems of the District of Columbia. These representatives must be residents of the District of Columbia.

PART IV

Term of office.—Committee members shall serve for three (3) years except for initial appointments as follows: of the twenty-nine (29) members first appointed as members of said Committee, ten (10) shall be appointed for one (1) year, ten (10) for two (2) years, and nine (9) for three (3) years, and five (5) of the appointments for each of these designated initial terms shall be consumer members. The appointment of a member will automatically terminate if the member misses more than three (3) regularly scheduled meetings in a calendar year without prior excuse from the Chairman of the Committee. Should a vacancy occur through the death, incapacity, resignation, or removal of a member, a successor shall be appointed to complete the unexpired term of that member. After the expiration of his term, each member shall continue to serve until his successor is appointed and qualified. No person who has served six (6) years or more consecutively as a member shall be reappointed as a member until after the expiration of one (1) year from the end of such service.

PART V

Oath of office.—Members shall take an oath of office as follows:

"I, _____, having been duly appointed by the Commissioner of the District of Columbia as a member of the District of Columbia Health Planning Advisory Committee, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Committee to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties, so help me God."

PART VI

Compensation.—Members shall serve without compensation, but appropriate expenses will be reimbursed as indicated in Part VIII of this Order.

PART VII

Organization.—The District of Columbia Health Planning Advisory Committee shall determine its own organization, establishing appropriate sub-committees, and shall perfect its own rules of procedure; provided that one or more of its sub-committees shall be constituted to meet the requirements of the Hospital Survey and Construction Act (Title 42, U.S. Code (1964 ed.), Section 291d(a)(3)); the Mental Retardation Construction Act (Title 42, U.S. Code (1964 ed.), Section 2674(a)(3)); and the Community Mental Health Centers and other Mental Health Facilities Act (Title 42, U.S. Code (1964 ed.), Section 2684(a)(3)).

The Committee shall elect its own officers annually from among its own members. It shall convene at least nine (9) times a year at scheduled meetings. It shall hold additional meetings at the call of the Director of Public Health, its Chairman, or a majority of the Committee membership. The Director of Public Health shall be notified of all such meetings in advance and shall have the option of attending or sending a representative to attend such meetings.

PART VIII

Administration.—The Director of Public Health shall assist the Committee in matters of administration and shall provide it with necessary staff services. Expenses incurred by the Committee as a whole or by individual members thereof, when authorized by the Director of Public Health, will become an obligation against funds designated for this purpose.

PART IX

Reports.—Reports and recommendations of the Committee shall be furnished to the Director of Public Health and when appropriate through the Director to the Commissioner and may be released to such times and under such circumstances as the Director of Public Health or the Commissioner may determine.

PART X

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 15.—DISTRICT OF COLUMBIA COMMISSION ON ACADEMIC FACILITIES

(Replacement for Organization Order No. 143; Organization Order No. 15, Commissioner's Order No. 68-617, Sept. 20, 1968, as amended Mar. 7, 1969)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ordered that Organization Order No. 143 of March 6, 1964, as amended, be hereby designated as Organization Order No. 15, that its title be changed to "District of Columbia Commission on Academic Facilities", and that it be amended to read as follows: ORDERED:

There is hereby established a District of Columbia Commission on Academic Facilities to be composed of private citizens, educators and representatives of higher learning, including junior colleges and technical institutes.

PART I

A. Purpose.—The Commission shall make recommendations to the Commissioner concerning matters of higher education in the District of Columbia and particularly concerning the formulation and administration of a plan for the financing or construction, rehabilitation, and other improvements of academic and related facilities in institutions of higher learning, including junior colleges and technical institutes, and the District of Columbia.

PART II

A. Functions.—The Commission on Academic Facilities shall:

1. Recommend to the Commissioner the formulation of a plan for higher education in the District of Columbia, which plan shall meet the requirements of section 105(a) of the Higher Education Facilities Act of 1963 (Public Law 88-204; 77 Stat. 363), as amended.

2. Recommend to the Commissioner projects that may be eligible for Federal aid under said Act.

3. Consider applications submitted for Federal grants and loans pursuant to said Act and forward the recommended applications for approval to the Commissioner and to the Office of Education.

4. Recommend policy to the Commissioner on all matters relating to the administration of the Title I of the Higher Education Facilities Act of 1963, as amended, and Title VI, Part A, of Higher Education Act of 1965, as amended, State Plans for higher education in the District of Columbia.

5. Receive and develop pertinent data relating to the above-referenced Acts of Congress; disseminate information; and formulate suggested criteria, standards, methods, priorities and other actions required under the said Acts.

PART III

A. Composition.—The Commission shall consist of twenty-six (26) members appointed by the Commissioner on the basis of broad representation of the public and of institutions of higher education, including junior colleges and technical institutes in the District of Columbia. The members of the Commission shall include, but not be limited to, two (2) groups, the first consisting of the Presidents, or their delegates, of each institution of higher education in the District of Columbia eligible for Federal funds under Title I of the Higher Education Facilities Act of 1963, as amended, and under Title VI, Part A, of the Higher Education Act of 1965, as amended, including the Federal City College and Washington Technical Institute, and the Executive Director of the Consortium of Universities or his representative shall be a member of this group. The membership shall also include a second group consisting of interested citizens recommended for appointment to the Commissioner, by the Commission or any member of the public at large, and shall include the Commissioner or his delegate. Each member of the Commission, including the Commissioner, shall have one (1) vote.

PART IV

A. Term of office.—The term of office of the representatives of the institutions of higher education shall con-

tinue as long as the institutions are eligible for Federal funds under the aforesaid Act. Should a vacancy occur through the death, incapacity or resignation of an institutional member the institution may designate a new member who may serve on the said Commission with full powers under the official appointment of his predecessor. An institution of higher education shall be entitled to representation on the Commission as long as the institution is eligible for Federal funds under either Title I of the Higher Education Facilities Act of 1963, as amended, or Title VI, Part A of the Higher Education Act of 1965, as amended. The term of office of the non-institutional members of the Commission shall be for three (3) years, except that of the persons first appointed as members, one-third shall serve for one (1) year, such term to expire July 31, 1969; and one-third for two (2) years, such term to expire July 31, 1970; and one-third for three (3) years, such term to expire July 31, 1971. Should a vacancy occur through the death, incapacity or resignation of a member, a successor shall be appointed to complete the unexpired term. No non-institutional person who has served six (6) years consecutively as a member shall be eligible for reappointment until the expiration of one (1) year following the termination of his appointment.

PART V

A. Oath of office.—Members of the Commission shall take the following oath of office:

"I, _____ having been duly appointed by the Commissioner as a member of the Commission on Academic Facilities in the District of Columbia, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Commission to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties; so help me God."

PART VI

A. Compensation.—Members of the Commission shall serve without compensation.

PART VII

A. Organization.—Upon recommendation of the Commission, the Commissioner shall appoint an Executive Secretary, a Chairman and a Vice Chairman. The Executive Secretary to the Commission shall have no vote. The Commission shall determine its own organization and may name such officers other than those appointed by the Commissioner as it deems necessary. The Commission shall meet at the call of the Commissioner, or any officer of the Commission, or at the request of five (5) members of the Commission.

PART VIII

Administration.—The Director of Program Development, District Government, shall provide necessary administrative supervision of the staff to the Commission and such other staff support as may be necessary. The Executive Secretary of the Commission shall be responsible for the preparation of applications for funding approved by the Commission and for submission of same to the District Commissioner's Office and to the Office of Education, Department of Health, Education and Welfare.

PART IX

The Commission shall regularly report its activities to the Commissioner.

ORGANIZATION ORDER NO. 16.—COMMISSION ON THE ARTS

(Organization Order No. 16, Commissioner's Order No. 68-737, Nov. 29, 1968.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ORDERED THAT:

There is hereby established in the Government of the District of Columbia, a Commission on the Arts.

PART I

Purpose.—The purpose of the Commission on the Arts is to advise and recommend to the Commissioner of the

District of Columbia concerning matters related to the arts, and to encourage the development of programs which promote progress of the arts. For purposes of this Order, the term "arts" (both visual and performing) includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution and exhibition of such major art forms.

PART II

Functions.—The Commission on the Arts shall:

1. Advise and recommend to the Commissioner concerning needs of the people of the District of Columbia for artistic and cultural activities, and concerning the development and improvement of arts and cultural programs in the District.

2. Prepare and recommend to the Commissioner an annual plan for artistic projects and productions in the District of Columbia, which plan shall meet the requirements of Section 5(h) of the National Foundation on the Arts and Humanities Act of 1965 (P.L. 89-209), as amended.

3. Consider, and recommend to the Commissioner, applications for Federal grants-in-aid to projects or productions in the arts.

4. Work with governmental departments and agencies, private organizations and the people of the community, to develop and undertake programs which will encourage maximum participation in artistic and cultural activities and which will promote greater appreciation and enjoyment of the arts.

5. Accept gifts, contributions, and bequests of money or property to be used for carrying out the purposes of this Order.

PART III

Membership and term of office.—The Commission on the Arts shall be appointed by the Commissioner and shall consist of at least thirty-four (34) members who shall be representative of the arts and of community interests in the arts. The term of office of members of the Commission shall be three years, except that initial appointments shall be made as follows: of the members first appointed, at least eleven (11) shall be appointed for one year, eleven (11) for two years, and twelve (12) for three years. Upon the expiration of his term, each member shall continue to serve until his successor is appointed. Should a vacancy occur through the death, incapacity, resignation, or removal of a member, a successor shall be appointed to complete the unexpired term of that member.

PART IV

Oath of office.—Members of the Commission shall take the following oath of office:

"I, _____, having been duly appointed by the Commissioner as a member of the Commission on the Arts in the District of Columbia, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Commission to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties; so help me God."

PART V

Compensation.—Members of the Commission shall serve without compensation.

PART VI

Organization.—The Commission shall designate a Chairman and such other officers as it deems necessary, shall determine its internal organization, and shall establish its own rules and procedures. Upon recommendation of the Commission, the Commissioner shall appoint an Executive Director to the Commission. The Executive Director shall have no vote. The Commission shall meet

at the call of the Commissioner, or of the Chairman of the Commission, or upon request of five (5) members of the Commission.

PART VII

Administration.—The Executive Director of the Commission shall be responsible for the administration of the Commission. Expenses incurred by the Commission as a whole, or by individual members, or by the staff of the Commission, shall be met from public and/or private funds provided for the administration of District affairs.

PART VIII

Reports.—The Commission shall regularly report its activities to the Commissioner.

ORGANIZATION ORDER NO. 17.—PUBLIC WELFARE ADVISORY COMMITTEE

(Organization Order No. 17, Commissioner's Order No. 69-84, Feb. 28, 1969, as amended May 26, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ordered that Reorganization Order No. 61 dated July 28, 1953, as amended, establishing and making provisions for the Public Welfare Advisory Council, be hereby redesignated as Organization Order No. 17 and read as follows:

PART I

Public Welfare Advisory Committee.—There is hereby established in the Government of the District of Columbia a permanent committee of citizens representative of the community at large, to be known as the Public Welfare Advisory Committee.

PART II

Purpose.—The Public Welfare Advisory Committee is established to foster the interest, involvement and maximum feasible participation of the citizens of the District of Columbia in public welfare matters, and to advise and assist the Government of the District of Columbia and its Department of Public Welfare concerning existing and proposed public welfare programs and problems.

PART III

Function.—The Public Welfare Advisory Committee shall advise and assist the Director of Public Welfare and the Commissioner in the following respects:

1. Study, evaluate and make appropriate recommendations with respect to (a) the operations, and activities of the Department of Public Welfare, (b) proposals for new policies and statutes, or changes in existing policies and statutes, affecting the public welfare program, and (c) make such recommendations by testimony or otherwise, as it deems necessary or appropriate.
2. Act as an intermediary and source of information in bringing to the Department of Public Welfare the views and concerns of the District of Columbia community with regard to public welfare programs and problems, and interpret such Department's activities to the community.
3. Determine and make known the public welfare needs and desires, and where appropriate, formulate proposals or programs to meet such needs and desires.
4. Assist in coordinating the programs and activities of the Department of Public Welfare with the programs and activities of community organizations.
5. Evaluate, upon request by the Commissioner, the qualifications of candidates for the position of Director of Public Welfare and make appropriate recommendations.

PART IV

Composition.—The Committee shall consist of fifteen members (residents of the District of Columbia for a period of at least 3 years immediately prior to appointment), appointed by the Commissioner of the District of Columbia, plus one member, a user or former user of Department services, from each of the Department of Public Welfare's decentralized Neighborhood Centers, such members to be elected by the Neighborhood Committees, set up under the auspices of the Public Welfare Advisory Committee.

The appointed members of the Committee will represent all geographic areas of the District of Columbia, all eco-

nomie levels, and all cultural backgrounds. They will have one point in common: their concern for public welfare policies and problems.

PART V

Term of office.—The terms of the appointed members are to be fixed at three years, except for initial appointments, as follows: Of the 15 persons first appointed as members of said Committee, five shall be appointed for one year, five for two years, and five for three years. Should a vacancy occur through death, incapacity, removal, or resignation of a member, a successor shall be appointed to complete the unexpired term of that member. After expiration of his term, each member shall continue to serve until his successor is appointed and qualified. Members will serve for not longer than two full consecutive terms. The members elected by the Neighborhood Centers of the Department of Public Welfare will serve for a term of one year, beginning September 1, and may be reelected for a maximum of three one-year terms. The method of their selection shall be determined by the Neighborhood Center Committee with the approval of the Chairman of the Public Welfare Advisory Committee.

Compensation.—All members shall serve without compensation, but appropriate expenses will be reimbursed as indicated in Part VII of this Order.

PART VI

Organization.—The Public Welfare Advisory Committee shall determine its own organization and perfect its own rules of procedure. The Committee shall elect its officers annually from among its own members. It shall convene at least nine times each year at regularly scheduled meetings. It shall hold additional meetings at the call of the Commissioner, the Director of Public Welfare, the presiding officer of the Committee, or a majority of the Committee membership. A quorum shall consist of a majority of the members of the Committee present and voting. All decisions of the Committee shall be by majority vote of such quorum. The Committee shall enact its own by-laws, and determine its own procedures consistent with this Order, to implement the performance of its functions.

PART VII

Administration.—The Director of Public Welfare shall assist the Committee in matters of administration and shall provide it with the necessary staff services. Expenses incurred by the Committee as a whole, or by individual members, when authorized by the Director of Public Welfare (or designee) will become an obligation against funds designated for this purpose.

PART VIII

Reports.—Reports and recommendations of the Committee shall be furnished the Commissioner and the Director of Public Welfare, and may be released at such times and under such circumstances as the Commissioner, the Director of Public Welfare, or Committee may determine.

PART IX

Effective date.—The provisions of this order shall become effective immediately.

ORGANIZATION ORDER NO. 18.—CRIMINAL JUSTICE COORDINATING BOARD

(Organization Order No. 18, Commissioner's Order No. 69-135, Mar. 24, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ORDERED THAT:

There is hereby established in the Government of the District of Columbia the Criminal Justice Coordinating Board.

PART I

Functions.—The Criminal Justice Coordinating Board shall review law enforcement needs and problems, advise the Commissioner on long-range and immediate law enforcement objectives, goals, and programs, including those under the Omnibus Crime Control and Safe Streets Act of 1968; recommend to him general priorities for the improvement of the criminal justice system in the District of Columbia; and assist in the coordination of programs to achieve the objectives and goals thereof.

PART II

Composition and membership.—The Board shall be composed of the following members:

1. Commissioner of the District of Columbia.
2. Chairman, D.C. Council.
3. Assistant to the Commissioner, D.C.
4. Director of Public Safety, D.C.
5. Associate Deputy Attorney General for the Administration of Criminal Justice.
6. U.S. Attorney for the District of Columbia.
7. Chief Judge, U.S. Court of Appeals.
8. Chief Judge, U.S. District Court.
9. Chief Judge, D.C. Court of Appeals.
10. Chief Judge, Court of General Sessions, D.C.
11. Chairman, Judicial Council's Committee on Administration of Justice.
12. Corporation Counsel, D.C.
13. Director, Department of Corrections, D.C.
14. Chairman, Board of Parole, D.C.
15. Executive Director, Washington Metropolitan Council of Governments.
16. Director, D.C. Legal Aid Agency.
- 17, 18, 19, 20, 21. Five (5) nongovernment members to be selected by the Commissioner.

The terms of the five nongovernment members shall coincide with the term of the Commissioner.

PART III

Compensation.—Ex officio members of the Board shall serve without additional compensation; however, appropriate expenses may be reimbursed as indicated in Part V of this Order.

PART IV

Organization.—The Commissioner shall serve as Chairman, the Assistant to the Commissioner as Chairman pro tem, and the Director of Public Safety as Vice Chairman of the Criminal Justice Coordinating Board.

PART V

Administration.—The Director of Public Safety shall assist the Board in matters of administration and shall provide it with necessary staff services. Expenses incurred by the Board as a whole, or by individual members, when authorized by the Commissioner, Assistant to the Commissioner, or the Director of Public Safety will become an obligation against funds designated for that purpose.

PART VI

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 19.—MAYOR'S COMMITTEE ON CRIME AND DELINQUENCY

(Organization Order No. 19, Commissioner's No. 69-136, Mar. 24, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ORDERED THAT:

There is hereby established in the Government of the District of Columbia the Mayor's Committee on Crime and Delinquency.

PART I

Functions.—The Committee shall:

1. Make recommendations on the development, execution, progress, performance and impact of programs for the reduction, prevention and control of crime and juvenile delinquency, including those coming under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and the Juvenile Delinquency Prevention and Control Act of 1968, and participate in their implementation.
2. Assist in the communication of the purposes and goals of criminal justice planning and control of delinquency to the community and encourage the cooperation and coordination of public and private efforts aimed toward improving programs to this end in the District of Columbia and in the metropolitan area.
3. Establish special work shops and conferences, from time to time, to develop proposals for improving the criminal justice system and preventing and controlling crime and delinquency, gain public support and understanding of programs serving such objectives, and elicit participation from residents of the District and others.

PART II

Composition and membership.—The Committee on Crime and Delinquency shall consist of the following members:

A. Government Members—Ex Officio—

1. Commissioner of the District of Columbia.
2. Chairman, D.C. Council.
3. Assistant to the Commissioner, D.C.
4. Director, Department of Public Safety, D.C.
5. Associate Deputy Attorney General for the Administration of Criminal Justice.
6. U.S. Attorney for the District of Columbia.
7. Chief Judge, U.S. Court of Appeals.
8. Chief Judge, U.S. District Court.
9. Chief Judge, D.C. Court of Appeals.
10. Chief Judge, Court of General Sessions, D.C.
11. Chief Judge, D.C. Juvenile Court.
12. U.S. Marshal for the District of Columbia.
13. Chairman, Judicial Council's Committee on Administration of Justice.
14. Corporation Counsel, D.C.
15. Executive Director, Washington Metropolitan Council of Governments.
16. Director, D.C. Legal Aid Agency.
17. Director, D.C. Bail Agency.
18. D.C. Manpower Administrator.
19. Executive Director, Human Relations Commission, D.C.
20. Chief, Metropolitan Police.
21. Chief, U.S. Park Police.
22. Director, Department of Corrections, D.C.
23. Chairman, Correctional Advisory Committee, D.C.
24. Chairman, Board of Parole, D.C.
25. Director, Department of Public Welfare, D.C.
26. Chairman, Public Welfare Advisory Committee, D.C.
27. Director, Department of Public Health, D.C.
28. Chairman, Health Planning Advisory Committee, D.C.
29. Director, Department of Vocational Rehabilitation, D.C.
30. Chairman, Advisory Council on Vocational Rehabilitation, D.C.
31. Director, Department of Recreation, D.C.
32. Chairman, Community Recreation Advisory Board, D.C.
33. President, Board of Education, D.C.
34. Superintendent of Schools, D.C.
35. Chairman, Board of Higher Education, D.C.
36. President, Federal City College, D.C.
37. Chairman, Board of Vocational Education, D.C.
38. President, Washington Technical Institute, D.C.

B. Non-Government Members—Ex Officio Members:

1. Director, D.C. Health and Welfare Council.
2. Executive Director, United Planning Organization.
3. President, D.C. Bar Association.
4. President, Washington Bar Association.

Other Members: Not less than 21 member to be appointed by the Commissioner of the District of Columbia, including individuals and representatives serving with community groups having an interest in criminal justice and crime and delinquency prevention such as professional groups, local universities, business groups, neighborhood planning councils and other community groups, youth organizations, and social service agencies. These members shall serve terms of three years, except for initial appointments which shall be as follows: one-third of the membership shall be for three years, one-third for two years, and one-third for one year. If a vacancy occurs through death, incapacity, removal or resignation of a member, a successor shall be appointed to complete the unexpired term of that member. After expiration of his term, each member shall continue to serve until his successor is appointed and qualified.

PART III

Compensation.—Ex officio members of the Committee shall serve without additional compensation; however, appropriate expenses may be reimbursed as indicated in Part V of this Order.

PART IV

Organization.—The Commissioner shall serve as Chairman, the Assistant to the Commissioner as Chairman pro tem, and the Director of Public Safety as Vice Chairman of the Committee on Crime and Delinquency. The Committee may establish such subcommittees as it deems necessary, to which the Commissioner may name persons who are not members of the Committee.

PART V

Administration.—The Director of Public Safety shall assist the Committee in matters of administration and shall provide it with necessary staff services. Other departments and agencies of the District Government shall participate and cooperate as appropriate. Expenses incurred by the Committee as a whole, or by individual members, when authorized by the Commissioner, Assistant to the Commissioner, or the Director of Public Safety will become an obligation against funds designated for that purpose.

PART VI

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 20.—ADVISORY COMMITTEE ON THE AGING

(Organization Ord. No. 20, Commissioner's Order No. 69-212, May 12, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is ORDERED THAT:

Organization Order No. 144 of April 28, 1964, as amended, establishing the Interdepartmental Committee on Aging, is hereby redesignated as Organization Order No. 20, and reads as follows:

There is hereby established in the Government of the District of Columbia an Advisory Committee on Aging.

PART I

Purpose.—The purpose of the Committee shall be to serve in an advisory capacity to the Director of Public Welfare in the administration of the District of Columbia's plan to carry out the objectives of the Older Americans Act of 1965 (Public Law 89-73) and Federal regulations issued pursuant thereto.

PART II

Functions.—The Committee shall:

1. Advise and make recommendations to the Director of Public Welfare on current and potential programs and activities, both governmental and nongovernmental, relating to special problems of welfare of older persons.
2. Advise on methods to stimulate, inform and educate local organizations on programs and activities to inform the community and older people themselves about aging and what can be done to improve conditions for the aging.
3. Serve as a clearinghouse through which various public and nonpublic organizations may exchange information, coordinate programs, and engage in joint endeavors.
4. Provide advice and information to D.C. departments and agencies and non-governmental organizations that may be considering inauguration of services, programs, or facilities for the aging.
5. Advise and make recommendations on programs to encourage employers to hire older persons and for using older persons to do uncompensated volunteer work.

PART III

Composition and membership.—The Committee shall consist of 17 members to be appointed by the Commissioner. At least 9 of the members shall be representatives of older people themselves, and of those public and voluntary organizations concerned with the elderly and those that have given evidence of particular dedication to, and understanding of, the aged. Ex officio members of the Committee shall be the Director of Public Welfare; the Director of Public Health; the Director of Vocational Rehabilitation; the Superintendent of Schools; the Director of Recreation; the Executive Director, National Capital Housing Authority; the Director, U.S. Employment Service for the District of Columbia; and the Director D.C. Public Library. Each director may designate an alternate

member to serve his temporary absence and may utilize the services of his Department in furthering the objectives of the Committee.

PART IV

Term of office.—Committee members shall serve terms of three years, except for initial appointments which shall be as follows: one-third for three years, one-third for two years and one-third for one year. If a vacancy occurs through death, incapacity, removal or resignation of a member, a successor shall be appointed to complete the unexpired term of that member. After expiration of his term, each member shall continue to serve until his successor is qualified and appointed.

PART V

Compensation.—All members shall serve without compensation, but appropriate expenses will be reimbursed as indicated in Part VII of this Order.

PART VI

Organization.—The Committee shall determine its own organization and perfect its own rules of procedure. The Committee shall elect a Chairman and a Vice Chairman who shall serve for one year, or until such time as a successor has been duly elected. The Committee may designate such other officers as it deems necessary.

PART VII

Administration.—The Director of Public Welfare shall assist the Committee in matters of administration and shall provide it with necessary staff services. Expenses incurred by the Committee as a whole, or by individual members thereof, when authorized by the Director of Public Welfare, will become an obligation against funds designated for this purpose.

PART IX

Effective date.—The provisions of this Order shall take effect immediately.

ORGANIZATION ORDER NO. 21.—TRAFFIC COORDINATING COMMITTEE

(Organization Order No. 21, Commissioner's Order No. 69-235, May 26, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is HEREBY ORDERED THAT:

Commissioner's Order No. 58-1208 of August 1, 1958, as amended, be redesignated as Organization Order No. 21 and read as follows:

There is hereby established in the Government of the District of Columbia a Traffic Coordinating Committee to be composed of District department and agency representatives, other officials, and citizens concerned with various aspects of highway safety, including traffic control and safety, in the District of Columbia.

PART I

Functions.—The Committee shall:

1. Advise, assist and make recommendations to the Commissioner, the Director of the Department of Motor Vehicles and other heads of departments and agencies, as appropriate, in matters relating to highway safety such as programs designed to reduce traffic accidents and deaths, injuries, property damage, and others.
2. Advise and make recommendations on collecting, analyzing and disseminating information related to highway safety and traffic safety.
3. Encourage and assist in the implementation of innovative highway safety and traffic safety programs.
4. Analyze problems of traffic control and traffic safety and make recommendations on the needs for improving the flow of traffic and the control of vehicles, drivers and pedestrians.
5. Arrange for publicizing the District's Highway Safety Program and Traffic Safety Program, and for assisting in the implementation of the provisions thereof.

PART II

Composition and membership.—The Committee shall consist of the following:

1. Highway Safety Program Coordinator, who shall be the Chairman;
2. Director of the Department of Motor Vehicles;
3. Chairman, Citizens Traffic Board;

4. Executive Secretary, Citizens Traffic Board; and representatives from the following:
5. Office of the Corporation Counsel;
6. D.C. Court of General Sessions;
7. Department of Highways and Traffic;
8. Department of Public Health;
9. Metropolitan Police Department;
10. Fire Department;
11. Motor Vehicle Parking Agency;
12. D.C. Public Schools;
13. Public Service Commission;
14. U.S. Park Police;
15. National Capital Region, National Park Service.

PART III

Term of office.—The members of the Committee shall serve until notified otherwise by the Commissioner of the District of Columbia.

PART IV

Compensation.—Ex officio members of the Committee shall serve without additional compensation; however, appropriate expenses may be reimbursed as indicated in Part VI of this Order.

PART V

Organization.—The Committee shall determine its own organization and perfect its own rules of procedures.

PART VI

Administration.—The Director of Motor Vehicles shall assist the Committee in matters of administration and shall provide it with necessary staff services. Expenses incurred by the Committee as a whole, or by individual members, when authorized by the Director of Motor Vehicles will become an obligation against funds designated for that purpose.

PART VII

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 22.—MENTAL RETARDATION COORDINATING COMMITTEE

(Organization Order No. 22, Commissioner's Order No. 69-276, June 6, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is **HEREBY ORDERED**:

There is hereby established in the Government of the District of Columbia a Mental Retardation Coordinating Committee.

PART I

Purpose.—The Mental Retardation Coordinating Committee for the District of Columbia is established to represent the following departments and agencies:

1. Department of Public Health.
2. Department of Public Welfare.
3. District of Columbia Public Schools.
4. Department of Recreation.
5. Department of Vocational Rehabilitation.
6. Department of Corrections.
7. D.C. Health and Welfare Council.
8. D.C. Manpower Administration.

The Committee shall provide counsel and assistance for the coordination of the activities of the above-named departments and agencies in carrying out the official Plan for Comprehensive Services to the Mentally Retarded in the District of Columbia.

PART II

Functions.—The Mental Retardation Coordinating Committee shall serve to alert the Directors of the various Departments, the Heads of the Agencies, and the public to the complexities of the problems and objectives necessary in carrying out the Plan for Comprehensive Services to the Mentally Retarded and shall recommend changes in plans and programs to the various Departments and Agencies, wherever appropriate.

PART III

Composition and membership.—The Committee shall consist of eight members, one representing each of the Departments and Agencies enumerated in Part I hereof.

Each member shall be appointed by the Commissioner and shall serve until notified otherwise by the Commissioner. The Committee shall select its own Chairman.

PART IV

Compensation.—Each member is to serve without additional compensation.

PART V

Administration.—The Department of Public Health shall provide necessary support services to the Committee.

PART VI

Effective date.—The provisions of this Order are to become effective immediately.

ORGANIZATION ORDER NO. 23.—D.C. PUBLIC SPACE COMMITTEE

(Organization Order No. 23, Commissioner's Order No. 69-502, Sept. 3, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is **HEREBY ORDERED**:

There is established in the Government of the District of Columbia a D.C. Public Space Committee.

PART I

Purpose.—The Committee is established to investigate the matter of permits issued by the District of Columbia for the use and occupancy of public space for private purposes.

PART II

Composition.—A. The D.C. Public Space Committee shall be composed of the following members:

1. Director, Department of Highways and Traffic, D.C. (who shall serve as Chairman of the Committee),
2. Director, Department of Sanitary Engineering, D.C.,
3. Director, Department of Economic Development, D.C.,
4. An Assistant Corporation Counsel to be designated by the Corporation Counsel, D.C.,
5. Assistant to the Commissioner for Housing Programs.

B. Each member of the D.C. Public Space Committee may be represented at a meeting of the Committee by an alternate designated by him from among his senior assistants to serve on said Committee and such alternate is authorized to exercise at meetings of said Committee all of the powers vested in the member whom the alternate represents.

PART III

Functions.—A. The Committee shall investigate matters of permits issued by the District of Columbia for the use and occupancy of public space for private purposes (including public utilities) to determine whether the District's interests are properly protected and safeguarded in all cases.

B. The Committee shall recommend changes in, or additions to, language of protecting clauses in permits to accomplish uniformity in such protecting clauses and maximum protection to the District, or any modification of procedure in such cases as may be necessary or desirable to accomplish maximum protection to the District.

PART IV

Authority to make final determinations.—A. The D.C. Public Space Committee is hereby authorized to make final determination in all cases relating to requests for use of public space, exclusive of those involving the closing of streets and alleys and the designation of business streets in order to permit sidewalk cafes.

B. All determinations by the D.C. Public Space Committee shall be by unanimous vote and those cases in which complete agreement cannot be reached by the Committee members present and voting shall be referred to the Commissioner for resolution.

PART V

Compensation.—Members of the Committee shall serve without compensation.

PART VI

Administration.—The Director, Departments of Highways and Traffic shall provide the necessary administrative and staff services required by the Committee.

PART VII

Repeal of previous orders.—Commissioners' Order No. 54-1861 of September 2, 1954, as amended, is hereby repealed and those other Orders, or parts of Orders, in conflict with the provisions of this Order, are to the extent of such conflict hereby repealed.

PART VIII

Effective date.—This Order shall become effective immediately.

ORGANIZATION ORDER NO. 24.—ADVISORY COMMITTEE ON EMERGENCY MEDICAL SERVICES

(Organization Order No. 24, Commissioner's Order No. 69-591, Oct. 14, 1969.)

By virtue of the authority vested in me by Reorganization Plan No. 3 of 1967, it is **HEREBY ORDERED THAT:**
There is hereby established in the Government of the District of Columbia the Advisory Committee on Emergency Medical Services.

PART I

Purpose.—The Advisory Committee on Emergency Medical Services shall advise and assist the Commissioner in developing standards and regulations governing ambulances, equipment and supplies, personnel and training, communications, and the emergency care and treatment of the injured or suddenly-ill at the scene of their injury or illness, in transport, or at the emergency treatment facility.

PART II

Functions.—The Committee shall advise and assist the Commissioner for the District of Columbia in:

1. Developing a comprehensive plan for emergency medical services.
2. Coordinating the activities of lay and professional groups and organizations essential to the improvement of the community's emergency medical services program.
3. Coordinating the requirements for contract agreements between the District of Columbia and surrounding state jurisdictions to insure reciprocity of standards and regulations in the Washington metropolitan area.
4. Reviewing the needs of the community on a continuing basis, including the need for further technological training.
5. Performing such other functions as the Commissioner may assign to the Committee relative to emergency medical services.

PART III

Composition and membership.—The Committee shall be composed of:

- a. Representatives from:
 1. Medical Society, District of Columbia.
 2. American Academy of Orthopaedic Surgeons on Trauma, District of Columbia.
 3. Medico-Chirurgical Society.
 4. American College of Surgeons.
 5. District of Columbia Council.
 6. Department of Public Health, District of Columbia.
 7. Department of Motor Vehicles, District of Columbia.
 8. Metropolitan Police Department, District of Columbia.
 9. Ambulance Service, District of Columbia Fire Dept.
 10. Board of Police and Fire Surgeons, District of Columbia.
 11. Corporation Counsel, District of Columbia.
 12. Coroner, District of Columbia.
 13. American Red Cross, District of Columbia.
 14. Hospital Council of the National Capital Area.
 15. Health Facilities Planning Council of Metropolitan Washington, District of Columbia.
 16. Ambulance Association of the District of Columbia.

b. Up to 10 residents, including representatives of citizens organizations, appointed by the Commissioner.
The Chairman of the Committee shall be designated by the Commissioner. The Assistant to the Commissioner for Human Resource Programs shall arrange for the designation of an Executive Secretary to serve the Committee.

PART IV

Terms of office.—Members, other than those representing agencies of the District of Columbia Government, shall serve for three years, except for initial appointments, as

follows: Of the persons first appointed as members of the Committee, one-third shall be appointed for three years, one-third for two years, and the remainder for one year. Should a vacancy occur through death, incapacity, removal, or resignation of a member, a successor shall be appointed to complete the unexpired term of that member. After expiration of his term, each member shall continue to serve until his successor is appointed and qualified. Members shall serve for not longer than two full consecutive terms.

PART V

Organization.—The Committee shall establish work groups structured as deemed necessary to accomplish its mission. The Committee shall meet at least once each quarter at the call of the Chairman; the work groups, as required, at the call of each elected work-group chairman. The Committee shall determine its own procedures consistent with this Order to implement the performance of its functions.

PART VI

Compensation.—Members shall serve without compensation but appropriate expenses will be reimbursed as indicated in Part VII of this Order.

PART VII

Administration.—The Executive Secretary to the Committee shall be responsible for Committee administration and shall provide it with the necessary staff services. Expenses incurred by the Committee as a whole, or its individual members, when authorized by the Assistant to the Commissioner for Human Resource Programs, or his designee, will become an obligation against funds designated for that purpose.

PART VIII

Reports.—Reports and recommendations of the Committee for standards and regulations as set forth in Part I of this Order shall be forwarded to the Commissioner for consideration. Release of reports and recommendations shall be at the discretion of the Commissioner, or his designee.

PART IX

Effective date.—The provisions of this Order shall become effective immediately.

ORGANIZATION ORDER NO. 101.—OFFICE OF THE RECORDER OF DEEDS

(Organization Ord. No. 101, 63-197, Jan. 24, 1963, as corrected and amended Mar. 13, 1963 (63-703), and Oct. 22, 1968, repealing Organization Ord. No. 130, dated Apr. 26, 1962, relative to the Office of the Recorder of Deeds, and superseding Organization Ord. No. 101, 54-1980, dated Sept. 16, 1954, as amended (Oct. 14, 1954, Nov. 30, 1954, June 10, 1955, Feb. 19, 1960, and May 29, 1963).)

* * * * *

PART IV

Functions.—The functions of the Office of the Recorder of Deeds shall include, but not be limited to, the following in accordance with the delegations contained in Part I herein:

A. Serves as an office of record for the recording, filing and handling of all public records in the form of deeds, deeds of trust, motor vehicle liens, chattel mortgages, notices of foreclosure, contracts and other instruments in writing affecting a right, title or interest in real and personal property in the District of Columbia.

* * * * *

J. Serves as an office of record for the receipt, filing, indexing, mailing and handling of notice of foreclosure sale received pursuant to Public Law 90-566 (D.C. Code, Section 45-615, as amended).

ORGANIZATION ORDER NO. 104.—DEPARTMENT OF VOCATIONAL REHABILITATION

(Organization Ord. No. 104, 54-2310, Oct. 28, 1954, as amended Nov. 19, 1957, Mar. 30, 1965, and Dec. 26, 1968.)

* * * * *

PART IV

* * * * *

H. Establishes, maintains and administers a register of blind persons residing in the District of Columbia, as pro-

vided by P.L. 90-458. Provides, under regulations prescribed by the District of Columbia Council, information from the register of such nature as will, or may be, of assistance in planning of improved facilities and services for blind persons, and in the restoration and conservation of sight. Makes available in the form of statistical abstracts or digests information contained in the register and from reports furnished for inclusion in the register, provided the identity of persons referred to in either the reports or register are not disclosed in the abstracts or digests.

ORGANIZATION ORDER NO. 107.—HACKERS' BOARD
[This Org. Ord. was replaced and amended by Org. Ord. No. 13, dated Aug. 15, 1968]

ORGANIZATION ORDER NO. 108.—CITIZENS' TRAFFIC BOARD
(Organization Ord. No. 108, 55-888, May 17, 1955, as amended Feb. 18, 1959, Sept. 12, 1961, Dec. 12, 1961, Mar. 27, 1962, and July 11, 1967.)

* * * * *
PART III

Composition and membership:
1. The Citizens' Traffic Board shall consist of not to exceed 25 members appointed by the Board of Commissioners and subject to removal at the discretion of the Board of Commissioners, except that during the period April 1, 1962, to April 1, 1963, the Citizens' Traffic Board shall consist of not to exceed 27 members: *Provided*, That if, during such period one or more members of such Board is or are separated therefrom by death, resignation or otherwise, such member or members may be replaced so that the membership of the Board shall not, during such period, exceed 26 if one member is so separated and shall not exceed 25 if two or more members are so separated. Members shall hold office for terms of three years, except that of the initial appointments one-third shall serve for one year, one-third for two years, and one-third for three years. Should a vacancy occur through the death, incapacity or resignation of a member, a successor may be appointed to complete the unexpired term and in the same manner as regular appointments. No person shall serve more than two consecutive terms but may be reappointed after a lapse of one year. Appointments scheduled to terminate or begin on Feb. 18, 1962, shall instead terminate or begin on Apr. 1, 1962. April 1 shall subsequently be the regular date of rotation of appointments each year.
In addition to the 25 appointed members, the Chairman of the Traffic Safety Committee of the Federation of Citizens' Associations and the Chairman of the Traffic Safety Committee of the Federation of Civic Associations shall serve as ex officio members of the Citizens' Traffic Board.

* * * * *
ORGANIZATION ORDER NO. 109.—Revised

ESTABLISHING THE POSITION OF DIRECTOR OF COMMUNITY RENEWAL, AN OFFICE OF COMMUNITY RENEWAL PROGRAMMING AND AN OFFICE OF RENEWAL OPERATIONS

Organization Order No. 109, 67-302, Mar. 14, 1967, ordered that: Organization Order No. 109, dated May 31, 1955, as amended, is hereby rescinded and replaced in its entirety as follows:

PART I

Policy.—The Government of the District of Columbia, working in close liaison and cooperation with the National Capital Planning Commission, the National Capital Housing Authority, the Redevelopment Land Agency, the National Capital Transportation Agency, the President's Council on Pennsylvania Avenue, and other interested agencies, in accordance with the District of Columbia Redevelopment Act of 1945, as amended, and the Housing Act of 1954, dedicates itself, and such of its resources and facilities as are available for such purpose, to the prevention and the elimination of slums, blight and other unhealthful or unsafe living and environmental conditions in the District of Columbia.

PART II

Director of Community Renewal.—There is hereby established the position of Director of Community Renewal.
A. Purpose.—To provide the Board of Commissioners with a single official responsible to them for carrying out the District of Columbia Government's functions in the planning and conduct of the programs for urban development and for the elimination and prevention of slums and blight, and for carrying out the Six-Year Public Works program.
B. Functions.—The Director of Community Renewal, working in close coordination with the National Capital Planning Commission, the National Capital Housing Authority, the Redevelopment Land Agency, the National Capital Transportation Agency, the President's Council on Pennsylvania Avenue, and other public and non-profit agencies and groups, shall take the initiative for the Board of Commissioners in:
1. Preparation of plans and schedules for the execution of the overall programs for urban development and for the elimination and prevention of slums and blight, and submittal of such plans and schedules together with necessary supporting data to the Board of Commissioners for their review and approval.
2. Integration of all operations of all departments and agencies of the District of Columbia Government, including those pertaining to the public works program and the maintenance of working liaison with public agencies, as they relate to the urban renewal and slum prevention program.
3. Presentation and interpretation of views and objectives of the Board of Commissioners to other public agencies having roles in the program, and to civic, neighborhood, and business organizations, and the maintenance of continuous, harmonious relationships with such organizations in policy and operational aspects of the program, with the objective of securing coordinated community action as required.
4. Continuing review and evaluation of: (1) the urban renewal and slum prevention program and its planning, (2) the procedures and techniques employed in its execution, (3) the sufficiency of codes and regulations, and (4) the adequacy of organizational relationships; and the development and presentation to the Board of Commissioners of recommendations for such action as may be required to correct deficiencies in the program, speed up its operations, or otherwise to improve its effectiveness.
5. Preparation and implementation of a Community Renewal Program which will encompass the long-range needs in the District of Columbia for urban renewal and slum prevention.

PART III

Office of Community Renewal Programming.—There is established under the direction and control of the Director of Community Renewal, an Office of Community Renewal Programming.
A. Purpose and functions.—The Office of Community Renewal Programming is established for the purpose of advising and assisting, and shall perform functions necessary to advise and assist the Director of Community Renewal in:
1. Completion, revision and updating of the Community Renewal Program.
2. Preparation of the Six-Year Capital Improvements Program, in collaboration with the Department of General Administration.
3. Preparation of a Six-Year Housing Program as a segment of the Community Renewal Program.
4. Preparation of a detailed program for the Urban Progress Centers.
5. Communication with civic, neighborhood and business organizations to obtain reaction and assistance in the preparation of plans and programs for the community.
6. Coordination with the Comprehensive Plan.
7. Review of all renewal, public housing and other social and economic projects and programs for conformance to the Community Renewal Program.
8. Preparation of special detailed studies relating to the Community Renewal Program and its implementation.

9. Provision of Staff assistance to the Commissioners' Planning and Urban Renewal Advisory Council.

10. Maintenance of liaison with the Assistant Engineer Commissioner for Planning and the Assistant Engineer Commissioner for Operations.

The senior member of the Office of Community Renewal Programming shall assist the Director of Community Renewal, as assigned, in carrying out the latter's overall administrative responsibilities and shall serve as Executive Secretary to the Commissioners' Planning and Urban Renewal Advisory Council.

PART IV

Office of Renewal Operations.—There is established under the direction and control of the Director of Community Renewal an Office of Renewal Operations.

A. *Purpose and functions.*—The Office of Renewal Operations is established for the purpose of advising and assisting, and shall perform functions necessary to advise and assist the Director of Community Renewal in:

1. Preparation of the Annual Workable Program.
2. Coordination of relocation activities on an inter-agency basis.
3. Coordination of interdepartmental activities for renewal, public housing and development operation.
4. Expedition and coordination of all renewal operations consistent with established time schedules for each project or program.
5. Evaluation of improvements to the procedures for the coordination of renewal operations.
6. Cooperation with civic, neighborhood and business organizations to elicit participation and assistance in the execution of renewal projects and programs in the community.

7. Promotion of non-profit housing and provision of assistance to prospective sponsors or developers of non-profit housing projects.

8. Provision of staff assistance to the Urban Renewal Operations Committee.

9. Maintenance of liaison with the Assistant Engineer Commissioner for Operations and with the Assistant Engineer Commissioner for Planning.

The senior member of the Office of Renewal Operations shall assist the Director of Community Renewal, as assigned, in carrying out the latter's overall administrative responsibilities and shall serve as Executive Secretary to the Urban Renewal Operations Committee.

PART V

Personnel and funds.—Personnel and funds shall be provided for the Office of Community Renewal Programming and the Office of Renewal Operations within the limits of available appropriations which may properly be used for such purpose.

PART VI

Effective date.—This Order shall be effective on and after April 14, 1967.

ORGANIZATION ORDER NO. 112.—BOARD OF APPEALS AND REVIEW

(Organization Ord. No. 112, 55-1500, dated Aug. 11, 1955, as amended July 12, 1960, Aug. 9, 1960, Dec. 15, 1960, Apr. 25, 1961, Mar. 15, 1962, Dec. 4, 1962, Apr. 13, 1965, Mar. 7, 1968, and Aug. 6, 1968.)

PART I

Board of Appeals and Review:

A. *Establishment.*—The Board of Appeals and Review is constituted as hereinafter described.

B. *Purpose, composition, qualifications of members and terms of office:*

1. The Board of Appeals and Review (hereinafter referred to as "the Board") is an administrative agency in the Government of the District of Columbia providing a final administrative remedy in those cases assigned to it.

2. The Board shall consist of twenty-five members appointed by the Commissioner. The Chairman and Vice Chairman of the Board shall be designated by the Commissioner: *Provided*, that the Vice Chairman shall exercise the authorities of the Chairman only in the absence of said Chairman.

3. Of the twenty-five members of the Board:

a. Eight shall be full-time employees of the District of Columbia of grade GS-13 or higher (hereinafter referred to as "District members"), but no such member shall be an employee of the District of Columbia in the Office of the Corporation Counsel. District members shall receive no additional compensation for work performed by virtue of their appointment or service as members of the Board.

b. Seventeen shall be intermittent employees of the District of Columbia (hereinafter referred to as "Public members"), each of whom resides in said District or owns in his own name real property therein, eight of whom shall be members of the Bar of the United States District Court for the District of Columbia who have had at least five years' experience in the active practice of law in the District of Columbia, and nine of whom shall be persons who possess, to the extent that the Commissioner may deem it necessary or desirable, insight and perspectives in the fields of architecture, construction, finance, medicine, and social service, and with respect to whom the Commissioner shall take into account their qualifications, experience and community interests. Notwithstanding the preceding sentence, one or more physicians who are non-residents and who do not own real property in the District but who are engaged in the practice of medicine therein and are otherwise qualified shall be eligible for appointment as public members. Public members shall receive compensation when actually performing service as members of the Board.

4. The term of office of each member of the Board shall be three years. Every vacancy shall be filled only for the unexpired portion of the term. After the expiration of his term each member shall continue to serve until his successor has been appointed and qualified. Members shall be appointed, and may be removed, by the Commissioner. No person who has served continuously for six years or more as a member of the Board shall be reappointed as a member until the expiration of one year from the end of such service.

5. Every member of the Board shall take an oath of office as follows:

"I, _____, having been duly appointed by the Commissioner as a member of the Board of Appeals and Review, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of the said Board to the best of my ability without fear or favor; that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will well and faithfully discharge said duties, so help me God."

C. *Organization:*

1. There are hereby established such administrative, secretarial, stenographic and clerical positions as may be appropriate for the performance of duties incident to the Board's operations.

2. a. Except as herein otherwise provided, all powers, functions and authorities of the Board shall be exercised by Hearing Committees of the Board whose actions and decisions shall be deemed the actions and decisions of the Board, but the Chairman, may, pursuant to the rules prescribed by the Corporation Counsel, act for the Board in matters arising prior to hearing.

b. There shall be such number of Hearing Committees as may be established, from time to time, by the Chairman. Each Hearing Committee shall consist of three members of the Board, designated from time to time by the Chairman, one of whom shall be a member of the Bar of the United States District Court for the District of Columbia who has had at least five years' experience in the active practice of law in the District of Columbia and shall be presiding member. One member of each Hearing Committee shall be a District member of the Board; *Provided*, That no such District member shall be designated to sit on any Hearing Committee which hears an appeal from action by an officer or employee of any Department or Office in which he is employed. A quorum of a Hearing Committee shall be all three members thereof, but decisions may be by majority vote. The Chairman is authorized (i) to designate himself as a member of a Hearing Committee; or (ii) to serve *ex officio* as a fourth, non-voting member of a Hearing Committee.

c. The Chairman shall maintain one or more dockets of all cases to be considered by the Board and he shall assign

each such case to a Hearing Committee for action. The Chairman may, at any time before the commencement of a hearing, reassign any case from one Hearing Committee to another Hearing Committee.

d. Subject to the provisions of the second paragraph of Part II (a) of Reorganization Order No. 50, as amended, each Hearing Committee shall exercise the following functions:

(i) Conduct all hearings in cases assigned to it.

(ii) In each case be responsible for the preparation and maintenance of an adequate record of its proceedings and, in the absence of a stenographic transcript, prepare a summary of the evidence, and after the parties have been afforded an opportunity to examine the same and to propose amendments thereto and corrections thereof which shall be acted upon by the Committee, officially approve the same.

(iii) In each case make findings of fact, conclusions of law, and a decision sustaining, reversing, or modifying the action from which the appeal is taken or, when appropriate, dismiss the appeal or remand the case for further consideration.

(iv) File its findings of fact, conclusion of law and decision in each case with the Chairman, who shall transmit a copy thereof to each of the parties.

(v) When requested by the applicant or licensee, conduct a hearing on any proposed denial, revocation, or suspension of a pawnbroker's license and prepare thereon findings of fact, conclusions of law, and recommendations for disposition by the director of Licenses and Inspections. Not less than five days (exclusive of Saturdays, Sundays, and legal holidays) before forwarding to the Director such findings, conclusions, and recommendations, together with all documents and exhibits introduced in evidence, furnish to the applicant or licensee, or his attorney of record, a copy of such findings, conclusions, and recommendations, together with a letter advising that the applicant or licensee may, within such five-day period, or any extension thereof which may be granted by the Director, file with the Director any exceptions or objections he may have to such findings, conclusions, or recommendations.

e. The Chairman or a Hearing Committee, through its presiding member, may, without submission to the Commissioner, request directly of the Corporation Counsel his opinion upon any question of law involved in any case appealed to the Board.

f. Each Hearing Committee, through its presiding member, is authorized to request directly of the Corporation Counsel his assistance in putting into proper form such Committee's findings of fact, conclusions of law, and decision, in any case pending before such Committee.

3. Upon the request of the officer of the District of Columbia from whose decision, or action, or proposal to act, an appeal has been taken to the Board, the Corporation Counsel may assign one of his Assistants to represent the District before the Board.

D. Functions:

1. The Board shall, through Hearing Committees, consider on appeal decisions in the following types of cases, where error in such decisions is alleged by the appellants, and make a final determination sustaining, reversing, or modifying the action from which the appeal is taken or, when appropriate, dismiss the appeal or remand the case for further consideration:

Class A cases.—Appeals from decisions made by the Director or Deputy Director of Licenses and Inspections under the Housing Regulations.

Class B cases.—The Board of Appeals and Review, in its consideration of appeals from decisions made by the Director or Deputy Director of Licenses and Inspections under the Housing Regulations and under Articles 8 through 8-I of Chapter 6 of the Building Code may in its discretion grant variances as authorized by such Housing Regulations and such Articles 8 through 8-I of Chapter 6 of the Building Code and shall, in addition, consider and make final decisions on cases under consideration for the granting of a variance as authorized under the Housing Regulations and under Articles 8 through 8-I of Chapter 6 of the Building Code that may be referred without final determination by the Director or Deputy Director of Licenses and Inspections.

Class C cases.—Appeals submitted by applicants for licenses, permits, and certificates, from actions taken by responsible officials of the Department of Licenses and Inspections with respect to denial, suspension or revocation of a license, permit, or certificate: Provided, That in any case in which a license may issue only with the approval of the Chief of Police, the Board of Appeals and Review shall have authority to set aside the decision of the Department of Licenses and Inspections whenever such decision is based upon an adverse recommendation of the Chief of Police, which recommendation the Board of Appeals and Review finds is arbitrary, capricious, or not supported by substantial evidence.

Class D cases.—Appeals by persons directed by responsible officials of the Department of Licenses and Inspections to act or to refrain from acting, in accordance with inspectional or regulatory requirements (excluding dangerous and unsafe structures and excavations).

Class E cases.—Appeals from actions taken by the Fire Chief, the Director of Public Health, the Chief of Police, or the Director of Licenses and Inspections, or any designated agent of each such official, under the provisions of the Housing Regulations governing the removal of fences and sheds.

Class F cases.—Applications for review, pursuant to Section 4 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, of orders issued or actions taken under such Act (D.C. Code, Title 40, Chapter 4). If, in the opinion of the Chairman of the Board, the notice of appeal filed in any case under this paragraph does not raise a question of fact, the following procedures shall be applicable thereto: (a) The appeal shall be considered and decided as the Chairman of the Board in his discretion determines, either by a Hearing Committee or by the Chairman of the Board; and (b) in lieu of holding a hearing and taking testimony the review shall be solely on the record on the case as made in the Department of Motor Vehicles.

Class G cases.—Appeals from decisions of the Police and Firemen's Retirement and Relief Board to which the Procedural Rules for Review of such appeals, as set forth in attachment to Organization Order No. 12 of August 6, 1968, shall be applicable.

Class H cases.—Such other matters as the Commissioner may assign to the Board for appeal or for review and consideration.

E. Procedural rules:

1. Each party to an appeal shall, if request therefor is made, be entitled to present oral argument before his appeal is decided.

2. The activities of the Board shall be considered investigations or examinations of municipal matters within the meaning of the Act of July 1, 1902 (D.C. Code, Sec. 1-237) and each of the Board's Hearing Committees and each member thereof shall possess the powers vested in the Commissioner by that Act.

3. Except as provided otherwise by this order, the Corporation Counsel shall prescribe, and from time to time may amend, rules governing the procedures of the Board and of its Hearing Committees, including the establishment of time limitations where not otherwise set forth, and the development of methods of perfecting appeals to the Board.

4. Where the Board has not decided an appeal from the denial of a license application by the end of the license year for which the application was made and the appellant has made timely application for a license for the new license year, the pending appeal shall not become moot at the end of the license year for which the earlier application was made, but shall be deemed also to be an appeal from the denial of an application for a license for the new license year. If an oral hearing has already been had on the appeal, no further oral hearing shall be required, but a further oral hearing shall be provided at the request of a party to the appeal who may have additional evidence to offer.

5. Upon application by any person aggrieved by any action, decision, or ruling made by the Director of Licenses and Inspections in the administration of the act providing for the regulation and licensing of pawnbrokers, the Board shall review and make a final determination affirming, setting aside, or modifying such action, decision, or

ruling. In cases of denial, revocation, or suspension, such review shall be based upon the record and without a hearing by the Board.

* * * *

ORGANIZATION ORDER NO. 117.—COMMISSIONERS' ADVISORY COUNCIL ON FIRE PREVENTION

(Oct. 4, 1956, as amended)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

ORGANIZATION ORDER NO. 118.—EMERGENCY AMBULANCE SERVICE

(Aug. 27, 1957)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

ORGANIZATION ORDER NO. 119.—EMERGENCY AMBULANCE SERVICE COMMITTEE

(Organization Ord. No. 119, 57-1669, Aug. 27, 1957, as amended June 23, 1959, May 21, 1963, Sept. 9, 1964, and July 11, 1968.)

* * * *

PART III

Composition.—The following departments and agencies of the District Government shall designate one representative each to serve on the Emergency Ambulance Service Advisory Committee; this representative shall have the authority to speak for his department or agency:

- Fire Department.
- Police Department.
- Office of the Coroner.
- Department of Public Health.
- Board of Police and Fire Surgeons.
- Community Mental Health Center.

Each private voluntary hospital maintaining one or more ambulances in the Emergency Ambulance Service may designate one representative to the Committee. The Public Health Advisory Council, Freedmen's Hospital. The Washington Hospital Center, the D.C. Medical Association, and the Medico-Chirurgical Society of D.C. Children's Hospital, Providence Hospital, Hadley Memorial Hospital, and Georgetown University Hospital each may designate one representative to the Committee. Such other organizations as the Commissioners admit to membership on the Committee may designate one representative each.

Organizations designating representatives to the Committee as stated above shall also designate alternate members to serve in the absence of the regular members.

Committee members and alternates shall serve without compensation and until the organization which they represent notifies the Committee Chairman of the appointment of their successor. It is the intent of the Commissioners that District departments and agencies and non-governmental organizations entitled to membership on the Committee shall keep current their designation of their representatives and alternates on this Committee.

* * * *

ORGANIZATION ORDER NO. 121.—DEPARTMENT OF GENERAL ADMINISTRATION, FINANCE OFFICE

Part V of Organization Ord. No. 3, dated Dec. 13, 1967, Commissioner's Order No. 67-24, revoked this Order and abolished the department, offices and officers established thereunder.

ORGANIZATION ORDER NO. 122.—DEPARTMENT OF HIGHWAYS AND TRAFFIC

(Organization Ord. No. 122, 59-33, Jan. 8, 1959, amended Oct. 17, 1961, Oct. 22, 1964, Feb. 18, 1964, June 6, 1968, and Dec. 23, 1968.)

Reorganization Order No. 53, dated June 30, 1953, as amended, is hereby redesignated Organization Order No. 122, and amended to read as follows:

* * * *

PART III

A, B, C. * * *
D. The Director shall order all construction projects involving both assessable and non-assessable facilities,

within the framework of the programs for which he is responsible.

E. The Director shall have the authority to redelegate to department heads, based upon criteria which he shall establish, the functions of minor maintenance and repair of motor vehicles and repair of electronic equipment.

ORGANIZATION ORDER NO. 124.—PUBLIC INFORMATION UNIT (Described in Org. Ord. No. 2 as Public Affairs Office)

Part V of Organization Ord. No. 2, dated Dec. 13, 1967, Commissioner's Order No. 67-23, revoked this Order, and abolished the department, offices and officers established thereunder.

ORGANIZATION ORDER NO. 125.—DISTRICT OF COLUMBIA HUMAN RELATIONS COMMISSION

(Organization Ord. No. 125, 61-846, May 9, 1961, as amended Oct. 10, 1963, Jan. 30, 1964, Sept. 17, 1964, July 15, 1965, Jan. 23, 1968, and July 30, 1968.)

* * * *

3. *Composition and term of office.*—The Council shall consist of twenty-five (25) members selected by the Commissioner. Persons appointed to serve on the Council shall be outstanding persons residing or having their principal places of business in the District of Columbia and representing a cross section of the viewpoints of the community. Members shall hold office for terms of three (3) years. Should a vacancy occur through the death, incapacity or resignation of a member, a successor shall be appointed to complete the unexpired term and in the same manner as regular appointments. No person who has served six years or more consecutively as a member shall be reappointed as such member until after the expiration of one year from the end of such service.

* * * *

The name of the "Commissioner's Council on Human Relations" be changed to the
"District of Columbia Human Relations Commission."
Wherever there appears in the title, or body, of existing Orders the title of "Commissioner's Human Relations Council" the term shall mean the "District of Columbia Human Relations Commission."

ORGANIZATION ORDER NO. 127.—COMMITTEE ON EMPLOYEE CONDUCT

(Organization Ord. No. 127, 61-1430, Aug. 17, 1961, amended Nov. 3, 1967, by Org. Ord. No. 5.)

There is hereby designated a Committee on Employee Conduct composed of such persons as the Commissioner may designate.

* * * *

ORGANIZATION ORDER NO. 140.—DEPARTMENT OF PUBLIC WELFARE

(Organization Ord. No. 140, 64-191, Feb. 11, 1964, Oct. 8, 1965, June 7, 1966, Dec. 11, 1967 [eff. Jan. 14, 1968], May 12, 1969 and Nov. 18, 1969.)

Reorganization Order No. 58, dated June 30, 1953, as amended [for history see Reorg. Ord. No. 58 in main edition] is hereby redesignated Organization Order No. 140, and amended to read as follows:

* * * *

PART III

D. The Department is designated as the District agency to administer or supervise the administration of a District plan to carry out the objectives of the Older Americans Act of 1965 (Public Law 89-73) and Federal regulations issued pursuant thereto, with respect to aged and aging residents of the District. The Director shall administer the District's plan with the advice and assistance of the District of Columbia Advisory Committee on Aging.

E. The Director of the Department of Public Welfare, in the performance of functions for which he is responsible, is hereby authorized to establish such organizational components thereunder with such specified functions as he deems appropriate.

F. The Department of Public Welfare is designated as the District Government agency responsible for determining individual eligibility to receive medical care under the Medical Assistance Program. This authority shall be exercised in accordance with standards established by the Department of Public Health which has been designated

the single State agency in the District of Columbia to administer Title XIX of the Social Security Act.

PART IV

C. *Deputy Director for Family and Children Services.*—Plans, develops, and proposes policies and regulations for governing the family and children services provided by the Department. Implements and administers approved policies and regulations governing the family and children services provided to insure effectiveness of the direct assistance and services to individuals, families and children in the community. Initiates and administers policies and regulations to implement all public assistance and welfare laws (including, without limitation, the Social Security Act, the District of Columbia Public Assistance Act of 1962, and the Juvenile Court Act), and the care, custody, placement, and adoption of children. Directs administration of the system for determining eligibility for medical assistance under the District's Medicaid program. Directs the operation of all family and children services and exercises supervisory responsibility over the divisions concerned to insure proper implementation of policies and the maintenance of accurate standards of performance. Participates in overall departmental planning, budget justifications and implementation of the programs. Coordinates with the Director and the other deputies in regard to related activities. Maintains liaison with other appropriate District, State, Federal, and community agencies.

ORGANIZATION ORDER NO. 141.—DEPARTMENT OF PUBLIC HEALTH

(Organization Ord. No. 141, 64-193, Feb. 11, 1964, as amended Jan. 8, 1965, June 3, 1965, March 22, 1966, June 7, 1966, June 30, 1966, Feb. 7, 1967, June 29, 1967, Aug. 22, 1967, Aug. 24, 1967, and Nov. 14, 1968.)

Reorganization Order No. 52 (Commissioners' Order L.S. 4259-B), dated June 30, 1953, as amended, and Reorganization Order No. 57 (Commissioners' Order L.S. 4262-B), dated June 30, 1953, as amended Aug. 11, 1964, and Aug. 20, 1964, are hereby combined, amended, and redesignated Organization Order No. 141 to read as follows:

PART III

Director of Public Health, Department of Public Health.—

A. (Add the following at the end of par. A):
The Director shall administer or supervise the administration of such comprehensive health planning functions and such public health services as may be approved pursuant to sec. 314(a) (2) and sec. 314(d) (2) of the Public Health Service Act (as added by sec. 3 of the Comprehensive Health Planning and Public Health Services Amendments of 1966, P.L. 89-749).

D. The Director shall develop, administer and supervise a plan of Emergency Medical Care Services (other than Disaster) for the District of Columbia with the cooperation of the pertinent District of Columbia Government agencies and the participation of interested public and private organizations and individuals within the District of Columbia.

E. The Director, in consultation with the Heads of other District Departments where appropriate, shall be responsible for developing and executing a comprehensive program for the control and prevention of air pollution in the District of Columbia, as required by the District of Columbia Air Pollution Control Act of 1968 (P.L. 90-440).

F. The Director, in consultation and collaboration with appropriate public and private agencies, institutions, and organizations in the District of Columbia, and with the Secretary of Health, Education and Welfare, shall develop and execute a comprehensive program for the prevention of alcoholism, the rehabilitation of alcoholics, and the discouragement of the abuse of alcoholic beverages in the District of Columbia, as required by the District of Columbia Alcoholic Rehabilitation Act of 1967 (P.L. 90-452).

PART IV

A. *Associate Director for Administration.*—Plans, directs, and coordinates the administrative and business management of the Department. Under the Director, exercises full authority over the performance of the following staff and auxiliary functions: budget and finance; management analysis; manpower utilization; data processing; administration and custody of vital records of births, stillbirths, and deaths in the District of Columbia; administrative services, including building management and office services; and procurement and supply management on a centralized basis. Participates in, and assumes leadership responsibility for, developing departmental policies, and maintains and correlates the codified health regulations; examines the need for legislation and regulations, drafts recommended changes, and provides advice and assistance in related matters. Participates in, and assumes leadership for, financial policies and goals and for determining the Department's effectiveness in applying these policies and achieving these financial goals. Coordinates efforts with the Director and the Associate Directors and maintains liaison with appropriate District and Federal Government agencies and private health organizations; and supervises and directs the activities of the following organizational entities:

3. *Vital Records Division.*—Receives, maintains, secures, and edits vital records of births, stillbirths, and deaths in the District of Columbia; provides official copies of vital records to authorized persons. Evaluates existing statutes and regulations governing vital events and vital records and recommends changes in or additions to such statutes and regulations. Provides consultation to the Department, Funeral Directors and Undertakers Associations, the Coroner's Office, the medical associations, and lawyers with regard to the recording of vital events and vital records.

G. *Associate Director for Planning and Research.*—Responsible for the development of the Comprehensive Health Plan for the District of Columbia, for strengthening the cooperative relationship, and for the overall coordination of health planning of public, private, and voluntary organizations in the District of Columbia. Cooperates, assists in, and, where indicated, initiates health planning for the Washington Metropolitan Area. Directs the development of current and long range planning policy and actions for meeting the health needs of the District through public, private, and voluntary effort. Initiates studies, including research projects, to determine the scope, nature, and factors contributing to health resources available, recommends solutions, and when appropriate involves the Department of Public Welfare, the Department of Vocational Rehabilitation, the Board of Education, and other District departments. Keeps the Department abreast in the field of health planning by adopting and by informing key Department officials of new concepts employed by the Federal Government and by counterparts in other States. Directs the development and application of methods for evaluating the Department's health programs and in measuring progress toward attainment of established health program goals. Through consultation with public, private, Federal, professional, and citizen's organizations, and through contact with a representative sample of health services consumers, involves the community in planning for efficient utilization of health funds and manpower for the District of Columbia.

Programs Review and Development Division.—Provides staff support to all Directorates of the Department in developing programs and establishing priorities for solving identified health problems, in developing current and long range policy and action recommendations for meeting health needs of the District; assists in the review and support of the Department's budget and grants requests. Using quantitative and epidemiologic techniques and other modern sophisticated methods of program appraisal, periodically reviews and evaluates major health programs of the Department, determines weaknesses, and recommends alternatives for program efforts or suggests

other solutions to obtain efficient utilization of existing health resources. Provides staff support necessary for the Department to carry out its role as the designated District agency for comprehensive health planning. Develops departmental position papers as requested on laws, regulations, and special studies, which have an impact on health planning for the District of Columbia or the Washington Metropolitan Area.

Biostatistics Division.—Develops a relevant statistical base for decision-making for the Department, including statistical support in the development, implementation, and surveillance of all health and medical care programs of the Department. Develops statistical methods and indices necessary to meet the increasing emphasis being placed on program evaluation, including the design of methods to measure the health status of the District's population. Provides statistical tables and reports for distribution in the Department and elsewhere. For the Washington Metropolitan Area, assists in the development of: a statistical base for decision-making; statistical methods to measure health needs; and other statistical support required of the Department for aggressive participation in area-wide health planning.

Research Division.—Coordinates a continuing program of research to develop efficient means of providing health and medical care services for the District of Columbia. Provides consultation on and technical review of all proposed research and special projects of the Department and of other projects submitted to the Department in its role as the District Health Planning Agency. Initiates and participates in health service consumer-based studies, demonstration projects, and experiments in the Department to discover improved methods of providing health services within the scope of a comprehensive public health program. Cooperates, provides assistance, and, where possible, leads the way in eliminating duplication and overlap in projects or grants acquired in the Washington Metropolitan Area. Provides a clearinghouse service and maintains a register of all health-related research and special studies being conducted within the District of Columbia.

PART V

E. The Department shall be the sole agency responsible for administering or supervising the administration of the District's health planning functions under the plan required by sec. 314(a) (2) of the Public Health Service Act (as added by sec. 3 of the Comprehensive Health Planning and Public Health Services Amendments of 1966; P.L. 89-749).

F. The Department shall be the sole agency for the Commissioners responsible for the implementation of the plan for enhancing the quality of the interstate waters within the District and the enforcement of the water quality criteria adopted by the Commissioners pursuant to the Federal Water Pollution Control Act (70 Stat. 498; 33 U.S.C. 466), as amended by the Water Quality Act of 1965 (P.L. 89-234; 79 Stat. 903; and the Director shall make recommendations with respect to (1) regulations and legislation and (2) revisions of water quality criteria as may be needed to prevent, control, and abate water pollution within the District.

G. The Department, in cooperation with the Metropolitan Police Department, the Fire Department, the Department of Motor Vehicles, and the Department of Highways and Traffic, shall be the District agency responsible for the development, administration, supervision and periodic evaluation of the provisions of the D.C. Highway Safety Act of 1966 (23 U.S.C. 401 et seq., P.L. 89-564) insofar as it pertains to the training of drivers and the general public in medical self-help and first-aid education, medical criteria and medical evaluation processes for licensing drivers, procedures for chemical determination of blood-alcohol concentrations in persons driving under the influence of alcohol and in pedestrians involved in traffic accidents, and emergency medical services for prompt and proper medical care of the injured in traffic accidents.

H. The Department is designated as the agency of the District of Columbia to prepare a comprehensive program for the control and prevention of air pollution in the Dis-

trict of Columbia: *Provided*, That any agreements negotiated with governments and agencies of any State or political subdivisions thereof adjacent to the District of Columbia and any interstate or other regional agency representing any such State or political subdivision shall not become effective until approved by the Commissioner.

I. The Department is designated the agency of the District of Columbia to prepare and execute a comprehensive program to provide a continuum of appropriate services to intoxicated persons and chronic alcoholics, and to provide appropriate services necessary to aid in the prevention of chronic alcoholism. Such programs shall be executed in collaboration and cooperation with appropriate public and private agencies, organizations and institutions and with private industry.

ORGANIZATION ORDER NO. 142.—PUBLIC HEALTH ADVISORY

(Replaced by Org. Ord. No. 14 set out in this Appendix.)

ORGANIZATION ORDER NO. 143.—COMMISSIONERS' ADVISORY COUNCIL ON HIGHER EDUCATION IN THE DISTRICT OF COLUMBIA

(Replaced by Org. Ord. No. 15, set out in this Appendix.)

ORGANIZATION ORDER NO. 144.—INTERDEPARTMENTAL COMMITTEE ON AGING

(Organization Ord. No. 144, 64-632, Apr. 28, 1964, as amended Mar. 30, 1965, and Oct. 8, 1965.)

This organization order was redesignated as Organization Order No. 20, by Commissioner's Order No. 69-212, dated May 12, 1969, set out in this appendix.

ORGANIZATION ORDER NO. 147.—DEPARTMENT OF SANITARY ENGINEERING

(Organization Ord. No. 147, 65-1154, Aug. 19, 1965.)

Reorganization Order No. 28, dated Apr. 3, 1953, as amended [for history see Reorg. Ord. No. 28, in main edition] is hereby redesignated Organization Order No. 147, and amended Feb. 10, 1966, Jan. 10, 1967, and Aug. 12, 1968, to read as follows:

PART III

Director of Sanitary Engineering.—

D. The Department shall be the sole agency for carrying out the purposes of Sec. 206 of the Solid Waste Disposal Act (P.L. 89-272, Oct. 29, 1965) and shall take such action as necessary to provide for cooperation with the Department of Public Health and other District agencies so as to insure the full participation of the District in accomplishing the purposes of the act.

E. The Department of Sanitary Engineering is hereby designated as the "State Agency" for the District of Columbia for carrying out the purposes of Section 303, Title III, of the Water Resources Planning Act (July 22, 1965, Public Law 89-80).

F. The following authorities and functions are hereby delegated to the Director of Sanitary Engineering, together with authority to redelegate all, or portions thereof, as he deems appropriate.

1. *Free water allowances.*—To fix and grant allowances of water, without charge, to charitable institutions and churches within the District of Columbia in accordance with standards and limitations prescribed in D.C. Code, Section 43-1533, 1967 edition.

2. *Establishing miscellaneous fees.*—To establish fees for materials or services provided, in accordance with the provisions of the Plumbing Code of the District of Columbia, and for any other miscellaneous services or materials rendered which are of direct benefit to the applicants.

ORGANIZATION ORDER NO. 152.—SUPPLEMENT (Oct. 4, 1966)

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

**ORGANIZATION ORDER NO. 153.—METROPOLITAN
POLICE DEPARTMENT
(Nov. 10, 1966)**

Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

**ORGANIZATION ORDER NO. 154.—DEPARTMENT OF
CORRECTIONS**

Org. Ord. No. 7, dated Dec. 26, 1967, Commissioner's Order No. 67-94, redesignated this Order as Order No. 7 and amended it to read as set out in Org. Ord. No. 7, printed elsewhere in this appendix. Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

**ORGANIZATION ORDER NO. 155.—CORRECTIONAL
ADVISORY COMMITTEE**

(Organization Order No. 155, 67-174, February 7, 1967, as amended Nov. 27, 1968.)

There is hereby created in the District of Columbia a committee of citizens, representing the community at large, to be known as the Correctional Advisory Committee. Part IV of Org. Ord. No. 8, dated Apr. 18, 1968, Commissioner's Order No. 68-290, revoked this Order to the extent the same is inconsistent with Org. Ord. No. 8.

PART I

Purpose.—The Correctional Advisory Committee is established to provide for advisory participation by citizens, lay and professional, in the District Government's correctional program and to act in an advisory capacity to the Director of Corrections, and the designated Commissioner to whom he reports, on matters affecting the public.

PART II

Functions.—It is the intent of the Board of Commissioners that the Correctional Advisory Committee shall, in general, advise the Director of Corrections and the designated Commissioner, and inform the Citizens Council in the following respects:

1. Study and make appropriate recommendations with respect to proposals for new policies, regulations, rules and statutes or changes in existing policies, regulations, rules or statutes, affecting the correctional system.
2. Advise on the needs and desires of the correctional system and the formulation and execution of programs necessary to satisfy those needs and desires.
3. Advise and assist in coordinating the programs and activities of the Department of Corrections with those of community groups, associations, and professional organizations.
4. Interpret the activities of the Department of Corrections to the public and stimulate public interest, understanding and participation of the community in solving correctional problems.
5. Study the need for correctional institutions and community facilities and make recommendations with respect thereto based upon a continuing evaluation of such institutions and facilities.
6. Evaluate proposals for the operation, construction and utilization of correctional institutions and community facilities and make recommendations to include but not be limited to location, type, and size of the institutions and facilities.
7. Study and evaluate the budget, programs, operations and activities of the Department and make appropriate recommendations with respect to changes which may appear desirable.

PART III

Composition and membership.—The Committee shall consist of not less than seven (7) members appointed by the Board of Commissioners on the basis of personal qualifications. Persons appointed to membership on the Committee shall be selected insofar as possible in such a way as to provide in the aggregate a maximum degree of

perspective upon, and insight into, the correctional needs and goals of the District of Columbia.

Members shall hold no full or part-time office for which compensation is paid from District funds or from Federal grants to the District of Columbia.

The Committee shall consist of individuals of outstanding ability and knowledge in the fields of law, engineering, business, behavioral science, labor or civic affairs. A member may be a rehabilitated offender if he meets the other criteria established herein.

PART IV

Term of office.—The term of office of members shall be fixed at three years except for initial appointments as follows: of the members first appointed as members of said Committee, three shall be appointed for one year, two for two years, and two for three years. Should a vacancy occur through the death, incapacity, resignation, or removal of a member, a successor shall be appointed to complete the unexpired term of that member. After the expiration of his term each member shall continue to serve until his successor is appointed and qualified. No person who has served six years or more consecutively as a member shall be reappointed as a member until after the expiration of one year from the end of such service.

PART V

Oath of office.—Members shall take an oath of office as follows:

"I, -----, having been duly appointed by the Board of Commissioners as a member of the Correctional Advisory Committee, do solemnly swear that I will support and defend the Constitution of the United States; that I will perform such duties as may be assigned to me as a member of said Committee to the best of my ability without fear or favor; that I will exercise my best judgment and will consider each matter before me from the viewpoint of the best interest of the District of Columbia as a whole; and that I will well and faithfully discharge said duties so help me God."

PART VI

Compensation.—Members shall serve without compensation, but appropriate expenses will be reimbursed as indicated below.

PART VII

Organization.—The Correctional Advisory Committee shall determine its own organization establishing appropriate committees and subcommittees, and shall perfect its own rules of procedure. The Committee shall elect its own officers annually from among its own members. It shall convene at least nine times each year at regularly scheduled meetings. It shall hold additional meetings at the call of the Director of Corrections or a majority of the Committee membership. The Director of Corrections shall be notified of all such meetings sufficiently in advance and shall have the option of attending or sending his designated agent as an observer.

PART VIII

Administration.—The Director of Corrections shall assist the Council in matters of administration of the Committee and shall provide it with necessary staff services as needed. Expenses incurred by the Committee as a whole or by individual members, when authorized by the Board of Commissioners, will become an obligation against funds so designated.

PART IX

Reports.—Reports and recommendations of the Committee shall be furnished to the Director of Corrections or to the Citizens Council, or both, and may be released at such time and under such circumstances as the Director of Corrections or the Correctional Advisory Committee may determine.

PART X

Effective date.—The provisions of this Order shall become effective on and after February 7, 1967.

TITLE 2.—DISTRICT BOARDS AND COMMISSIONS

Chapter 1.—HEALING ARTS PRACTICE

SUBCHAPTER I.—LICENSURE AND OTHER REGULATORY PROVISIONS

Sec.

2-133. Exemptions from operation of license laws—Officers of Federal Government—Consultants—Treatment of specified patients—Doctors employed by District.

SUBCHAPTER I.—LICENSURE AND OTHER REGULATORY PROVISIONS

§§ 2-101, 2-102.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-103. Commission on licensure—Creation—Seal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(34) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to making and altering rules and altering and adopting a common seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-103a. Standards of education and training—Register of approved schools and hospitals—License on years of practice—Graduate of foreign medical schools.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(35) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) relating to establishing minimum standards to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-104. Commission on licensure to receive and record applications for licenses—Issuance of licenses—Registration and payment of fees—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-105. Power to appoint and discharge examiners and other employees—Contract for quarters and supplies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-106 to 2-122.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-123. Suspension and revocation of license—Procedure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-124 to 2-128.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-129. License may be refused for cause—Procedure—Attendance of witnesses before Commissioner—Review and appeal.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 33-708.

§§ 2-130, 2-131.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-132. Enjoining unlawful practice of healing art—Procedure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-133. Exemptions from operation of license laws—Officers of Federal Government—Consultants—Treatment of specified patients—Doctors employed by District.

The provisions of this subchapter forbidding the practice of the healing art without a license shall

not apply (a) to commissioned surgeons of the United States Army, Navy, or Public Health Service, or to medical officers in any other branch of the federal government whatsoever, in the discharge of their official duties; nor (b) to practitioners of the healing art duly licensed to practice their respective callings in states or territories, or in jurisdictions under the control of the federal government, or in foreign countries, and actually called from such states, territories, jurisdictions, or countries, in consultation, to visit specified patients in the District of Columbia or to give demonstrations or clinics under the auspices and for the members of an incorporated organization made up of licensed practitioners of the healing art in the District of Columbia; nor (c) to practitioners licensed to practice their respective callings in states and territories, and in other jurisdictions forming a part of the United States, or in foreign countries, and called from such states, territories, jurisdictions, or countries to visit, on their own behalf and not in consultation, specified patients in the District of Columbia; nor (d) to any practitioner in the discharge of his official duties as an employee of the government of the District of Columbia if such practitioner—

(1) is not less than twenty-one years of age and is of good moral character,

(2) has studied the healing art through not less than four graded courses and not less than nine months each in a professional school or schools approved by the Commissioners,

(3) has had not less than one year of training in a hospital approved by the Commissioners, and

(4) is duly licensed to practice his calling in a State or other jurisdiction forming a part of the United States. All practitioners claiming exemption under the provisions of this section, except those called into the District of Columbia on consultations only, shall file with the Commission, in such manner as the commission may prescribe, evidence of their right to such exemption. Upon proof of that right, to the satisfaction of the commission, the commission shall enter the name of the applicant in a register kept for that purpose and shall issue to the applicant a certificate in evidence of such registration. (Feb. 27, 1929, 45 Stat. 1339, ch. 352, § 42; Oct. 24, 1967, Pub. L. 90-115, § 1, 81 Stat. 336.)

AMENDMENTS

1967—Section 1, Pub. L. 90-115, amended section by striking out “: Provided, That all” and inserting in lieu thereof the matter beginning with “; nor (d)” and ending with the word “All”.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS TO SINGLE COMMISSIONER

Section 3 of Pub. L. 90-115, provided:

“Effective on the effective date of this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] or on the effective date of part IV of Reorganization Plan Numbered 3 of 1967, whichever is later, the functions vested in the Commissioners by this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-134 to 2-136.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-137. Enforcement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-138 to 2-140.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-141. Delegation of functions of “Commission”—Definition.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2.—ANATOMICAL BOARD

§ 2-204. Bond to be furnished by school receiving bodies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2A.—HUMAN TISSUE BANKS

§ 2-252. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-253. Tissue bank licenses and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(36) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 27-125.

§ 2-258. Office of the Coroner.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-260. Coordination of act with reorganization plan No. 5.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—DENTISTS

Sec.

2-309a. Special licenses—Applicability of other sections.

§ 2-301. Board of Dental Examiners—Appointment—Qualifications—Eligibility—Term of office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-302. Officers—Bond—Rules and regulations for admission to and practice of dentistry—Dental internes for hospitals—Sessions of board.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(37) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this sec-

tion relating to making and adopting of rules and regulations to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-303 to 2-305.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-306. Annual report of finances and official acts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-307. Application for license, form and requirements—Photograph—Citizenship—Verification—Fees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-308. Application for license—Examination—Admission without examination—Reciprocity with States or Territories—Waiver of examination.

AMENDMENTS

1967—Section 2(1) of Act Oct. 24, 1967, Pub. L. 90-115, amended section 8 of the Act entitled "An Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto", approved June 6, 1892, by inserting (a) immediately after "Sec. 8." Sec. 8 of the Act of June 8, 1892, is this section as amended by subsequent acts and the text of said section minus the designation of subsection (a) is set out in the 1967 edition of this code.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS TO SINGLE COMMISSIONER

Section 3 of Pub. L. 90-115 provided:

"Effective on the effective date of this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] or on the effective date of part IV of Reorganization Plan Numbered 3 of 1967, whichever is later, the functions vested in the Commissioners by this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-309. License—Form and execution—Registration—Duplicate licenses.

AMENDMENTS

1967—Section 2(2) of Act Oct. 24, 1967, Pub. L. 90-115, amended section 9 of the Act entitled "An Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto", approved June 6, 1892, by striking out in section 9, "Sec. 9." and inserting in front of the text thereof "b", thus making the text thereof subsection (b) of section 8. The text of what was formerly designated as section 9 is set out in the 1967 edition of the code, minus the designation of subsection (b).

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS TO SINGLE COMMISSIONER

Section 3, Pub. L. 90-115 provided:

"Effective on the effective date of this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] or on the effective date of part IV of Reorganization Plan Numbered 3 of 1967, whichever is later, the functions vested in the Commissioners by this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-309a. Special licenses—Applicability of other sections.

(a) (1) The Commissioners may issue to qualified applicants a special license to practice dentistry in the District of Columbia under such limitations as the Commissioners shall set forth in the license.

(2) For purposes of paragraph (1) of this subsection, the term "qualified applicant" means a person—

(A) who holds a license to practice dentistry in a State or other jurisdiction forming a part of the United States which license has been lawfully issued;

(B) who has not had any license to practice dentistry revoked or suspended in any jurisdiction;

(C) who is a graduate of a reputable dental college, approved by the Commissioners; and

(D) who has successfully completed any practical or theoretical examination which the Commissioners may require.

(b) The provisions of the following sections of this chapter shall apply with respect to a license issued under this section: section 2-311 (relating to revocation or suspension of license), section 2-312 (relating to procedure in suspending or revoking license), section 2-313 (relating to fees), and section 2-314 (annual registration of dentists)." (June 6, 1892, 27 Stat. 43, ch. 89 § 9, as added Oct. 24, 1967, Pub. L. 90-115, § 2(3), 81 Stat. 336.)

AMENDMENT

1967—Section 2(3) of Pub. L. 90-115, added this section.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS TO SINGLE COMMISSIONER

Section 3, Pub. L. 90-115 provided:

"Effective on the effective date of this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] or on the effective date of part IV of Reorganization Plan Numbered 3 of 1967, whichever is later, the functions vested in the Commissioners by this Act [Oct. 24, 1967, amendments of sections 2-133, 2-308, 2-309 and the addition of section 2-309a] shall be deemed to be vested in the Commissioner appointed pursuant to part III of such plan."

§ 2-310. Practice of dentistry declared to be subject to regulation and control as affecting public health and safety.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-311 to 2-314.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 2-309a, 33-708.

§§ 2-315 to 2-331.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

Chapter 4.—NURSES AND PHYSICAL THERAPISTS

SUBCHAPTER I.—REGISTERED NURSES

§ 2-401. Registration required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-402. Examining board—Constitution—Qualifications—Tenure—Removal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-403. Examining board—Organization—Officers—Duties—By-laws—Registration of nurses—Examinations—Notice—Inspection of schools.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(38) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as adopting and amending by-laws relating to the registration of graduate nurses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-404, 2-405.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

§ 2-406. Annual registration—Nurses—Training schools—Cancellation by failure to reregister—Restoration.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(38) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as adopting and amending by-laws relating to the registration of graduate nurses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 33-708.

§ 2-407. Suspension or revocation of certificate for filing false document or evidence—Procedure—Appeal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-408. Expenses to be paid from registration fees—Salaries and allowances—Audit—Annual report.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(39) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the fixing of fees referred to in clause (c), to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-409 to 2-411.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

SUBCHAPTER II.—PRACTICAL NURSES

§ 2-425. Commissioners authorized to delegate functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-426. Establishment of Practical Nurses' Examining Board—Composition—Terms—Compensation

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-427. Rules and regulations—Curricula and standards for nursing schools—Examination and licensing—Renewal of licenses—Commissioners may make studies and investigations, subpoena witnesses—Application to compel attendance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(40, 41 and 42) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (b) relating to adopting rules and regulations and prescribing minimum cur-

ricula and standards under sub-sec. (a); and obtaining information under oath or affirmation and compelling the attendance and testimony of witnesses under sub-sec. (b), to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-428. Qualification requirements—Written examination—Exception—Application fee—Closed and reopened applications.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-429. Conditions for issuance of license without written examination.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-430. License to be renewed annually—Processing of renewal applications—Reinstatement of lapsed licensees—Nonpracticing list of licensees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-431. Applications to operate a school of practical nursing—Commissioners to pass on qualifications of applicants—Survey of approved schools for maintenance of standards—Removal procedure of schools from accredited list.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-432. Fixation of miscellaneous fees—Payment into the Treasury.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-433. Denial, revocation, or suspension of licenses—Procedure—Lists of persons denied licenses may be furnished upon written request to boards of examiners of States, Territories, or foreign countries.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-434. Review of orders and decisions of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-435. Selling, aiding, or abetting in the sale of fraudulent licenses or diplomas—Practicing as a licensed practical nurse under false licenses or diplomas—Use of false designation tending to imply that a person is a licensed practical nurse—Practicing under a suspended or revoked license.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER III.—PHYSICAL THERAPISTS

§ 2-451. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-454. Powers of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-455. Establishment of board.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(43) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to determining the qualifications, prescribing the terms of office, and fixing the compensation of the Board, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-456. Powers and duties—Register of physical therapists and approved schools—Studies and investigations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(44, 45 and 46) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (b) relating to adopting of rules and regulations under subsec. (a); and obtaining information under oath or affirmation and compelling the attendance and testimony of witnesses under subsec. (b), to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-457. Registration of qualified applicants—Issuance of certificates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-458. Registration without examination.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Abuse of discretion

Findings of physical therapist examining board that petitioner applying for registration as physical therapist without requirement of examination did not submit satisfactory proof that he had practiced physical therapy during critical period under statute, that he had graduated from approved school, or that he had received comparable training or experience were not unreasonable or arbitrary and were supported by the evidence. *F. H. Carbon v. Physical Therapists Examining Board etc.* (D.C. App. 1968, 242 A. 2d 835).

Record in proceeding to review decision of physical therapist examining board denying petitioner's application for registration as physical therapist without requirement of examination failed to establish that board was prejudiced against petitioner. *Id.*

Comparable training

Training or experience offered to meet statutory requirement for registration as physical therapist in absence of graduation from approved school must establish that applicant's competence to assist his patients without endangering their health and safety is comparable to that of therapist who has graduated from approved school of physical therapy. *F. H. Carbon v. Physical Therapists Examining Board etc.* (D.C. App. 1968, 242 A. 2d 835).

Recognition of expertise of board

In determining whether petitioner for registration as physical therapist possesses training and experience comparable with one graduating from approved school of physical therapy, reviewing court is bound to recognize expertise of physical therapist examining board. *F. H. Carbon v. Physical Therapists Examining Board etc.* (D.C. App. 1968, 242 A. 2d 835).

Registration without examination

The protection of "grandfather clause" is not limited to exceptionally able people, but this does not mean that applicants shall not be required to possess the basic qualifications, competence, and skills comparable to those who have graduated from approved schools. *R. D. Culler v. Physical Therapists Examining Board, etc.* (D.C. App. 1967, 228 A. 2d 495).

The record established that physical therapy work previously done in district by petitioner seeking registration as physical therapist without examination had been only incidental to petitioner's employment in Maryland and did not amount to substantial physical therapy practice in the district. *Id.*

On the basis of record showing inter alia that applicant for registration as physical therapist without examination was deficient in knowledge of basic services requisite for proper understanding of physical therapy techniques during service in armed forces, displayed a lack of basic knowledge of anatomy and physiology which affected his ability to recognize contraindications for physical therapy treatments and that at Maryland nursing home applicant's duties consisted primarily in walking patients and sometimes performing nursing functions, he was not entitled to be licensed without examination. *Id.*

Applicant who had been engaged in various forms of physical therapy for 24 years and who had extensive

training and experience in physical therapy was entitled to registration as a physical therapist without examination under grandfather clause of District of Columbia physical therapy statute providing for registration of those receiving comparable training or experience of an approved school graduate. *J. F. Hansen, Sr. v. Physical Therapists Examining Board, etc.* (D.C. App. 1967, 228 A. 2d 497).

Testimony disclosing that applicant for registration without examination as physical therapist under grandfather clause of statute had not graduated from approved school of physical therapy and had been employed exclusively in "health clubs", that 90 percent of his work was "purely massage" and that only a few treatments were performed on patients under doctors' orders did not require District of Columbia physical therapy board to grant registration, and denial of application was not arbitrary. *A. F. Olsen v. District of Columbia Physical Therapists Examining Board* (D.C. App. 1967, 227 A. 2d 392).

Applicant for registration without examination as physical therapist under grandfather clause of statute having been granted full hearing before physical therapist examining board and was given opportunity to present any evidence he desired, there was no unfairness in proceedings *Id.*

Uncontradicted testimony

Uncontradicted testimony of petitioner applying for registration as physical therapist without requirement of examination that he practiced physical therapy was not sufficient, and something more was required than his self-serving declarations. *F. H. Carbon v. Physical Therapists Examining Board etc.* (D.C. App. 1968, 242 A. 2d 835).

§ 2-459. Registration after examination.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-460. Reciprocity.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-461. Renewal of registration—Nonpracticing therapists.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(47) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under subsection (a) relating to the changing of the periods for which registrations as physical therapists or renewals thereof may be issued, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-462. Denial, revocation, and suspension of registration.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-463. Court review.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-464. Unauthorized practice of physical therapy.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-468. Fees and charges—Public hearings to change fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-471. Reorganization.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—OPTOMETRISTS

§ 2-501. "Optometry" defined.

NOTES TO DECISIONS

Construction

Purpose of statute regulating the practice of optometry was to provide protection for the public and legislature intended examination of eye and adaptation of lenses to be separate acts of optometry. *N. Fields v. District of Columbia* (D.C. App. 1967, 232 A. 2d 300).

§ 2-502. Practice of optometry without license prohibited—Misrepresentation—False impersonation—Penalties.

NOTES TO DECISIONS

Basis for review

Although a number of individuals will be affected by a decision of District of Columbia Court of Appeals that of itself is not enough to require United States Court of Appeals to exercise its discretion and review the decision; rather, the nature of the question presented and the soundness of the decision are the proper considerations. *N. Fields v. District of Columbia* (1968, 404 F. 2d 1323, 131 U.S. App. D.C. 347).

District of Columbia Court of Appeals' decision adjudging that petitioner, an optician, had unlawfully practiced optometry without a license by his unsupervised fitting of contact lenses was proper and United States Court of Appeals would not in its discretion review such decision. *Id.*

United States Court of Appeals is not required to review District of Columbia Court of Appeals decision when what is involved is interpretation of a local statute, regulation, or ordinance; the interpretation given is within the zone of what is reasonable; the prosecution is for an offense *malum prohibitum* that is brought by the District of Columbia and not by the United States; and the case does not involve overtones of fundamental rights or substantial allegations of executive action as *ultra vires* or overreaching. *Id.*

Practice of optometry

Evidence showed that acts performed by optician in fitting patient's lenses involved areas of judgment and skill necessary to the adaptation of lenses within the meaning of optometry statute. *N. Fields v. District of Columbia* (D.C. App. 1967, 232 A. 2d 300).

Optician's contention that he would refer patient back to physician who had originally written prescription for glasses did not excuse his practice of optometry at the time of fitting. *Id.*

§ 2-503. Board of Optometry—Qualifications—Tenure—Oath—Removal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-505. By-laws and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-506. Secretary-treasurer to give bond.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-507. Secretary-treasurer to receive compensation and pay expenses out of funds in custody of board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-508. Official seal—Records—Reports.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-512. Changes in educational standards authorized.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(48) of Reorg. Plan No. 3 of 1967, effective August 11, 1967, except as provided in section 504(b) of the Plan, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 6.—PHARMACY**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in section 33-701.

§§ 2-601 to 2-605.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 33-708.

§ 2-606. Renewal of licenses or permits to sell poisons—Renewal obtained by fraud—Failure of board to renew—Hearings—Attendance of witnesses—Report of findings—Revocation of license—Review in District of Columbia Court of Appeals—Public display of license.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 33-708.

§ 2-607. Board of Pharmacy—Creation—Appointment—Tenure—Removal—Oath—Meetings—Seal—Bond of treasurer—Duty to examine applicants.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-608. Board of Pharmacy to have same powers as Commission on Licensure to Practice the Healing Art—Accounting—Records—Reports.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(49) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to "making and altering rules for the conduct of business of agency administering, and for the execution and enforcement of, the Act of May 7, 1906", to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-401, 33-708.

§ 2-609. Fees—Expenses—Compensation of Board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-610 to 2-617.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 33-708.

Chapter 7.—PODIATRY

§ 2-701. Board of Podiatry Examiners—Appointment—Term of office—Eligibility—Qualifications.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-702. Officers—Bond—Rules and regulations for admission to practice—Seal—Record of proceedings—Register of credentials and of licenses issued or revoked—Certified copy as evidence—Quorum—Annual report of finances and official acts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(50) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to adopting rules and regulations and adopting a seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-703 to 2-719.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 33-708.

Chapter 8.—VETERINARIANS

§ 2-801. Board of Examiners in Veterinary Medicine—Creation—Appointment, tenure, and removal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-802. Election of officers—Rules and regulations—Register of applicants—Bond—Reports.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(51) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to making, altering and amending rules and regulations and bonding provisions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-803. Applications for license—Qualifications—Fees—Expenses—Examinations—Applications preserved.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(52) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to determining, authorizing, and directing the subjects to be included in examinations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-804. Reciprocal relations with similar boards.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(53) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-805. Practitioners exempt from examination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§ 2-806. Appeal from board—Board of review—Fees and compensation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-708.

§§ 2-807 to 2-809.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 33-708.

§ 2-810. Revocation of licenses—Causes—Procedure—Appeals—Costs.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 33-708.

§§ 2-811, 2-812.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 33-708.

Chapter 9.—ACCOUNTANTS**§ 2-911. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-913. Board of Accounting—Corporation, qualifications, tenure, compensation, and removal.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS

Reorganization Order No. 59, part XIV thereof, established a Board of Accounting and delegated certain functions in the manner and particulars therein described. For details of part XIV, see the order set out in the appendix to title 1.

§ 2-914. Rules and regulations.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(423) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to adopting rules and regulations to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-915. Certified public accountants—Issuance of certificate—Qualifications—Prior applications and certificates.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-916. Education and experience required.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-917. Waiver of examination and endorsement of C.P.A. certificate—Rights of holder of endorsed certificate.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-918. Registration of certified public accountants—Failure to register.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-919. Registration of partnerships practicing public accountancy—Requirements—Use of titles.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-920. Hearings, and revocation, suspension, or denial of certificate, etc.—Censure—Procedure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-921. Witnesses and records at hearings—Nature of hearings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-922. Revocation or suspension of partnership registration—Censure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-923. Administrative procedure for public hearings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-924. Issuance of new certificate, etc. after revocation—Permitting registration after registration revoked.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-926. Penalty for violations—Prosecutions by Corporation Counsel—Jurisdiction.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-930. Fees for costs of administration—Disposition of funds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 10.—ARCHITECTS

§ 2-1001. Board of Examiners—Creation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(54) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the making of rules, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1003. Tenure—Filling vacancies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1004. Oath of office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1010. Roster of architects—Report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1023. Fees.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(55) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1028. Procedure for revocation—Appeal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-742.

§ 2-1029. Attendance of witnesses and production of documents.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(56) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 11.—BARBERS

§ 2-1102. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1103. Board of Barber Examiners—Qualifications—Tenure—Removal—Register—Power to make rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(57) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to adopting rules and sanitary regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1110. Refusal to issue, renew, or restore certificate—Revocation—Appeal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-742.

§ 2-1112. Conduct of examinations—Expenses and compensation—Appointment of clerk and inspectors—Qualifications.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1114a. Authority to prescribe regulations for posting prices of services—Authority to impose fine—Limitation of fine.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(58) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 12.—BOXING COMMISSION

§ 2-1210. Abolition of Boxing Commission—Creation of District Boxing Commission—Composition—Eligibility requirements—Compensation and term of office—Removal—Annual report to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1211. Employment of secretary, clerical and administrative personnel, inspectors and physicians—Compensation—Payment of salaries and expenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1212. Powers and duties—Supervision and regulation of professional boxing—Cooperation in promotion of amateur and collegiate boxing—Donation of equipment—Definitions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(59) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making and amending rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1217. Application for license—Fee payable in advance—Posting of bond—Recovery on bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1219. Covering of receipts into trust fund—Payment of salaries and expenses from fund—Limitation—Disposition of excess moneys—Advances for expenses and compensation—Sale or redemption of bonds owned by Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1-254.

§ 2-1220. Quarterly audit of accounts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 13.—COSMETOLOGISTS

§ 2-1301. Examination and licensing of those engaged in cosmetology—Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§ 2-1302. Board of Cosmetology—Qualifications—Tenure — Removal — Officers — Compensation — Bond—Meetings—Quorum—Records.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§ 2-1303. Regulations by the board.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(60) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§ 2-1304. Powers and duties of the board—Suspension, revocation of license—Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§ 2-1305. Appeal from action of the board.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§§ 2-1306 to 2-1317.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2310a.

§ 2-1318. Examinations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2310a.

§§ 2-1319 to 2-1328.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2310a.

Chapter 14.—PLUMBERS

§ 2-1401. Plumbing board—Appointment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1402. Licenses—Examination of applicants—Issuance.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1404. Bond.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1405. License—Renewal, fee, revocation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(61) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to fixing fees for licenses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 15.—STEAM AND OTHER OPERATING ENGINEERS**§ 2-1501. Steam and other operating engineers—License required.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1502. Board of examiners—Constitution—Examination of applicants—Compensation of Board members—Inspection of engines and boilers.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(62) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to providing rules and regulations, and prescribing tests to which engines and steam boilers shall be subjected, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 17.—ARMORY BOARD**SUBCHAPTER I.—GENERAL PROVISIONS****§ 2-1702. Membership of board—Term—Appointment of alternates—Delegation of authority—Compensation—Election of chairman.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- "(1) Board of Education (including the public school system).
- "(2) Board of Library Trustees (including the public libraries).
- "(3) Recreation Board.
- "(4) Public Service Commission.
- "(5) Zoning Commission.
- "(6) Zoning Advisory Council.
- "(7) Board of Zoning Adjustment.
- "(8) Office of the Recorder of Deeds.
- "(9) Armory Board."

§ 2-1703. Control and jurisdiction over District of Columbia National Guard Armory—Maintenance and repair.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1706. Secondary purposes—Authorization.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER II.—DISTRICT OF COLUMBIA STADIUM**§ 2-1724. Deposit of receipts into operating fund—Use of funds—Record of cost and maintenance to be kept—Board may advance moneys for operation and maintenance—Reimbursement—Surplus moneys to be placed in sinking fund—Statement to be filed with Congress.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(63) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the authority and responsibility of the Commissioners, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1727. Limitation on indebtedness—Limitation on liability of Board members—Deficits to be included in budget estimates—Commissioners may borrow from Secretary of Treasury—Repayment—Bonds guaranteed by the United States.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(63) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the authority and responsibility of the Commissioners, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1728. Filing of annual reports with Congress.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(63) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the authority and responsibility of the Commissioners, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 18.—PROFESSIONAL ENGINEERS**§ 2-1802. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1805. Board of registration—Appointment of members—Qualifications—Terms—Removal of members.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1806. Compensation of members of Board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-1808. General powers of Board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (64, 65, 66, 67 and 68) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (c), (j), (l), (n), (o) to the District of Columbia Council, to the extent and in the particulars specified in the pars. above enumerated, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1813. Fees—Payment of expenses—Audit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(69) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to the bonding provisions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-1816. Annual report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 19.—COUNCIL ON LAW ENFORCEMENT

§ 2-1901. Council on Law Enforcement in the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 20.—PAWNBROKERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 28:9-203.

§ 2-2001. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2002. Licenses required of pawnbrokers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2003. Appointment of attorney and application for licenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(70) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) (4) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2004. Bond provisions—Annual renewal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2005. Issuance of license.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2006. Revocation, suspension, and renewal of licenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix of title 1.

§ 2-2007. Enforcement provisions—Commissioners to investigate licensees—Production of records—Contempt proceedings—Filing of reports—Preservation of records—Review of Commissioners' decisions

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(71) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) relating to the making of rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix title 1.

§ 2-2008. Advertising—Statement of rates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2009. Investigations of economic conditions relating to pawnbrokerage business—Fixing of interest rates—Payment of loan.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(72) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) relating to the determination or fixing of maximum rates of interest, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2011. Pawnbroker to keep accurate records of loan transactions—Books open to inspection by Commissioners—Police to be admitted by pawnbroker during business hours—Divulging contents of records—Daily transcripts of loan transactions to be filed with Chief of Police.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2017. Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(73) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 21.—CHARITABLE SOLICITATIONS

§ 2-2101. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2102. Powers of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(74) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) (7) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2103. Certificate of registration—Nonapplicability to educational or religious groups—Other exemptions by regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(75) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under subsection (d) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2104. Application for and issuance of certificate.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(76) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) to the extent and in the particulars specified in par. 76, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2106. Registrant required to make report of contributions—Time.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2107. Representations as to truth or finding by Commissioners in regard to registration certificate or solicitor card prohibited.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2109. Commissioners may appoint advisory committee—Composition of committee—Secretary.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2110. Promulgation of regulations—Hearing.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(77) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 22.—LEGAL AID AGENCY

§ 2-2202. Counsel for indigents to be provided in criminal proceedings and proceedings of a criminal nature.

NOTES TO DECISIONS

Right to counsel

Where indigent defendant was not warned of his right to have counsel appointed for him at hearing before United States Commissioner after arrest, although counsel could possibly have lessened or prevented defendant's spending 2½ months in county jail and could have helped him maintain his plea of not guilty, and defendant appeared before court for arraignment after he had assured United States attorney that he would plead guilty, defendant was denied right to counsel and was entitled to have sentence vacated and new trial granted or, in absence of hearing within 90 days, to be discharged. *G. L. Stanley v. United States* (1968, 288 F. Supp. 666).

§ 2-2204. Power of agency vested in Board of Trustees—Appointment and terms of trustees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2210. Appropriations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For provisions dealing with budgetary matters see section 403 of Reorg. Plan No. 3, 1967, set out in the appendix to title 1.

Chapter 23.—BONDING OF HOME IMPROVEMENT BUSINESS

§ 2-2301. Bonding of persons engaged in home improvement business—Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(78) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the bonding provisions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2302. Commissioners may establish classes and subclasses of persons licensed in the home improvement business—Bonds for the protection of the public—Licensees may be required to carry public liability and property damage insurance—Designation of Commissioners by licensees as their attorney for service of process—Terms and conditions of bonds—Aggrieved person may sue on the bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(79 and 80) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) up to and including clause 2 of subsection (a) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Co-

lumbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 2-2305. Prosecutions to be conducted by Corporation Counsel.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 2-2306. Supplemental authority of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 24.—SECURITY AGENTS AND BROKERS

§ 2-2416. Advisory committee.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 3.—BOARD OF PUBLIC WELFARE

Chapter 1.—BOARD OF PUBLIC WELFARE

§ 3-103. Composition of board—Term of office—Eligibility of members—Removal—Service without compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-105. Director of Public Welfare—Appointment and duties—Qualifications—Other employees—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-107. Supervision of personnel of institutions—Appointment and discharge of personnel.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-108. Regulation of admissions to, and administration of institutions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(81) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the admission of persons to institutions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-112. Plans for new institutions to be submitted to board—Investigation of institutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-115. Contracts for care of dependent children.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-116. Children over whom Board shall have supervision.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(82) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the establishment of rules for receiving and temporarily caring for children, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-117. Board to care for dependent and neglected children—Children to be placed in private families—Adoption.

NOTES TO DECISIONS

Guardian ad litem

Refusal to appoint guardian ad litem for infant adoptee in adoption proceeding was not error where all essential facts concerning the child's welfare were presented by prospective adopters and by department of public welfare which appeared as adoptee's legal guardian. *In re Adoption of a Female Infant* (D.C. App. 1968, 237 A. 2d 468).

§ 3-121. Children under 17 years not to be committed to jail, workhouse, or police station.

CROSS REFERENCE

Federal Youth Corrections Act, applicability to the District, see 18 U.S.C. 5024, 5025.

§ 3-123. Annual budgets—Report of activities—Studies of social conditions—Children to be placed with regard to religious faith of parents—Record if placed elsewhere—Religious freedom.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2.—PUBLIC ASSISTANCE

§ 3-201. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-202. Categories and administrations of public assistance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(83) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) (2) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Validity of regulation

"Substitute parent" section of "Handbook of Public Assistance Policies and Procedures" promulgated by the Welfare Department was in fact a regulation but, not having been adopted by the Commissioners in manner prescribed by section 3-202, was invalidly promulgated; further, said regulation was inconsistent with the Social Security Act; however, it was not necessary or appropriate to grant extraordinary injunctive relief against the District of Columbia Department of Welfare, since the Department had ceased applying that regulation and was otherwise presently administering the "Aid to Families with Dependent Children" program within scope and spirit of *King v. Smith* decision of United States Supreme Court. *I. Robinson et al. v. W. E. Washington et al.* (1968, 302 F. Supp. 842).

§ 3-203. Eligibility for public assistance.

NOTES TO DECISIONS

Administrators discretion with regard to one-year residence requirement

District of Columbia Public Assistance Act did not grant administrators a discretion to disregard one-year residence requirements. *M. Harrell et al. v. W. N. Tobriner et al.* (1967, 279 F. Supp. 22; aff'd 89 S. Ct. 1322).

Consistent and reasonable interpretation by those charged with duty of administering District of Columbia Public Assistance Act was entitled to great weight. *Id.*

Under District of Columbia Public Assistance Act, "public assistance shall be awarded" to those who meet the one-year conditions meant that assistance was not to be granted unless those conditions were met. *Id.*

Congressional discretion

One-year residence requirement as a requisite for receipt of public assistance was within discretion of Congress. *M. Harrell et al. v. The Board of Commissioners etc.* (1967, 269 F. Supp. 919).

Constitutionality

Inasmuch as statutory classification which denied welfare assistance to individuals who had not resided in state for one year immediately preceding application touched on fundamental right of interstate movement, its constitutionality was required to be judged by standard of whether it promoted a compelling state interest, and not by traditional standard of whether it was without any reasonable basis. *W. E. Washington et al. v. C. M. Legrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

A substantial constitutional question was not raised by contention that one-year residence requirement for public welfare is unconstitutional. *M. Harrell et al. v. The Board of Commissioners, etc.* (1967, 269 F. Supp. 919).

One-year prior residence condition for public assistance was invalid classification in denial of equal protection as being without reasonable relation to purposes of legislation. *M. Harrell et al. v. W. N. Tobriner et al.* (1967, 279 F. Supp. 22; aff'd 89 S. Ct. 1322).

Invalidation of one-year prior residence condition for public assistance could not invalidate whole public assistance program. *Id.*

Due process

Due process clause of Fifth Amendment forbids Congress from denying public assistance to poor persons who are otherwise eligible solely on the ground that they have not been residents of the District of Columbia for one year at time their applications were filed. *W. E. Washington et al. v. C. M. Legrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

Equal protection of the laws

Statute denying welfare benefits to residents of less than a year creates a classification which constitutes an invidious discrimination denying them equal protection of the laws. *W. E. Washington et al. v. C. M. Legrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

Justification for statutory classification

Statute which denied welfare assistance to individuals who had not resided in state for one year immediately preceding application could not be justified as a permissible state attempt to discourage those indigents who would enter state solely to obtain larger benefits. *W. E. Washington et al. v. C. M. Legrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

Statute which denied welfare assistance to individuals who had not resided in state for one year immediately preceding application could not be sustained as an attempt to distinguish between new and old residents on basis of contribution they had made to community through payment of taxes. *Id.*

Evidence of a rational relationship between one-year residency requirement for receiving welfare assistance and state objectives of facilitating planning of welfare budget, of providing objective test of residency, of minimizing opportunity for recipients fraudulently to receive payments for more than one jurisdiction, and of encouraging reentry of new residents into labor force would not suffice to justify classification. *Id.*

One-year residency requirement

One-year residency requirement was not justified on ground that it facilitated planning of welfare budget. *W. E. Washington et al. v. C. M. Legrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

One-year residency requirement was not justified on ground that it provided objective test of residency. *Id.*

One-year residency requirement was not justified on ground that it minimized opportunity for recipients fraudulently to receive payments from more than one jurisdiction. *Id.*

One-year residency requirement was not justified on ground that it encouraged early entry of new residents into labor force. *Id.*

Reasonableness of one-year residence requirement

One-year prior residence condition for public assistance could not be said to be reasonable on theory that it was designed to protect jurisdiction from an influx of persons seeking more generous public assistance than might be available elsewhere, even if some citizens did

enter jurisdiction in order to obtain greater welfare aid. *M. Harrell et al. v. W. N. Tobriner et al.* (1967, 279 F. Supp. 22; aff'd 89 S. Ct. 1322).

Even assuming that a one-year prior residence condition for public assistance was valid as a provision to prevent abuse of public assistance, case of abuse was not established where challenged provisions swept before it all who had less than the required residence, including bona fide residents who had come to jurisdiction for reasons disassociated entirely from a desire to obtain relief. *Id.*

Right to public assistance

Statutes denying welfare assistance to persons who did not reside within district for at least one year could not be saved from constitutional infirmity on ground that public assistance benefits are a privilege and not a right. *W. E. Washington et al. v. C. M. Ligrant et al.* (1969, 89 S. Ct. 1322; aff'g 279 F. Supp. 22).

§ 3-204. Amount of public assistance.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(84) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-205. Application for public assistance.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(85) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-206. Investigation of applicant.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-207. Award and payment of public assistance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-208. Recipient incapacitated.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1,

§ 3-209. Emergency public assistance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-210. Redetermination of grants.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-211. Records.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(86) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) relating to the custody, use, and preservation of records, papers and files, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-213. Funeral expenses.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(87) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 3-214. Hearings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(88) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to hearings, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Declaratory and injunctive relief

In an action seeking declaratory and injunctive relief, the United States District Court for the District of Columbia properly declined jurisdiction of suit by mothers receiving assistance under District of Columbia Aid to Families with Dependent Children program against Board of Commissioners of the District of Columbia and other officials having responsibilities with regard to the program with respect to administration of program because mothers, prior to invoking aid of District Court, did not pursue avenues of administrative relief open to them. *P. A. Smith v. Board of Commissioners of the District of Columbia* (1967, 380 F. 2d 632, 127 U.S. App. D.C. 85).

§ 3-216. Fraud in obtaining public assistance—Repayment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-217. Property—District's claim against estate of recipient.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-218. Responsible relatives.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Survival of action against relatives for support

Where 84-year-old widow invoked the District of Columbia Public Assistance Act of 1962 against her eldest daughter, and the District of Columbia Court of General Sessions denied recovery, and, pending appeal to District of Columbia Court of Appeals, widow died, and her daughter moved for dismissal for mootness against substituted executor, District of Columbia Survival Act did

not require abatement, and it was error to grant motion for dismissal for mootness. *J. M. Stone, Executor etc. v. A. W. Brewster* (1968, 399 F. 2d 554, 130 U.S. App. D.C. 183).

The District of Columbia Survival Act was enacted for purpose of abrogating, in part at least, the harsh rule of the common law on the subject of survival, but its terms apply to any case in which a right of action has accrued prior to death, with certain limitation in tort cases. *Id.*

§ 3-220. Delegation of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Validity of regulation

"Substitute parent" section of "Handbook of Public Assistance Policies and Procedures" promulgated by the Welfare Department was in fact a regulation but, not having been adopted by the Commissioners in manner prescribed by section 3-202, was invalidly promulgated; further, said regulation was inconsistent with the Social Security Act; however, it was not necessary or appropriate to grant extraordinary injunctive relief against the District of Columbia Department of Welfare, since the Department had ceased applying that regulation and was otherwise presently administering the "Aid to Families with Dependent Children" program within scope and spirit of *King v. Smith* decision of United States Supreme Court. *I. Robinson et al. v. W. E. Washington et al.* (1968, 302 F. Supp. 842).

§ 3-221. Voluntary services.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 3-222. Appropriations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 4.—POLICE AND FIRE DEPARTMENTS

Chapter 1.—METROPOLITAN POLICE

Sec.

4-140a. Investigative arrests—Maximum period for questioning—Admissibility of confessions.

4-150a. False or fictitious reports to Metropolitan Police—Penalty.

§ 4-102. Police districts and precincts to be established by commissioners.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(89) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-103. Appointments—Civil service rules made applicable—Classification.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-104. Oath of office.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-105. Service during probationary period—Discharge for unsatisfactory service—Retention equivalent to permanent appointment.

No person shall receive a permanent appointment who has not served the required probationary period, but the service during probation shall be deemed to be service in the uniformed force if succeeded by a permanent appointment, and as such shall be included and counted in determining eligibility for advancement, promotion, retirement, and pension in accordance with existing law. If at any time during the period of probation, the conduct or capacity of the probationer is determined by the Commissioner of the District of Columbia, or his designated agent, to be unsatisfactory, the probationer shall be separated from the service after advance written notification of the reasons for and the effective date of the separation. The retention of the probationer in the service after satisfactory com-

pletion of the probationary period shall be equivalent to a permanent appointment therein. (Aug. 31, 1918, 40 Stat. 938, ch. 164; May 27, 1968, Pub. L. 90-320, § 6, 82 Stat. 145.)

AMENDMENT

1968—Section 6 of act May 27, 1968, Pub. L. 90-320, amended section to read as above set out. The amendment authorizes the termination of the employee's services at any time during the probationary period if services are found to be unsatisfactory, after advance written notification of the reasons for and the effective date of the separation.

EFFECTIVE DATE OF PUB. L. 90-320

Section 9 of act May 27, 1968, provided:

“(a) Except as provided in subsection (b) of the first section (amendment of sec. 4-823) and in subsection (b) of this section (amendment of sec. 4-105), the effective date of this Act (amending secs. 4-105, 4-823, 4-832(a); enacting secs. 4-823d-2, and secs. 4, 5, 7 and 8 of this Act set out as notes to sec. 4-823) shall be the first day of the first pay period beginning on or after October 1, 1967.

“(b) The effective date of the amendment made by section 6 of this Act (4-105) shall be the date of the enactment of this Act.” [May 27, 1968]

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-106. Classification of officers and privates of police department—Duties of each.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-106a. Assistant to inspector commanding detective bureau—Rank and pay—Chief of detectives—Rank and pay.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-107. Age limits on original appointments.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(90) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-108a. Allowance for use of private motor vehicles by inspectors.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-110. Detail of privates for detective work.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-112. Crossing policemen—Detail—Penalty for failure to stop cars.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-115. Special policemen—Appointment and compensation.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(91) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to regulations regarding special policemen, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS**Arrest powers of special officer**

A special officer commissioned under this section, as a citizen, had authority to arrest defendant and codefendant where he saw them take at least three sport coats and, from his general knowledge and particularly as employee of the department store, he must have known that such coats would cost about \$35 apiece so that defendant was stealing more than \$100 worth of merchandise. Moreover, a citizen, need not make a rapid-fire calculation of the value of the merchandise in arresting a shoplifter. *T. Gaither and C. Tatum v. United States* (1969, 413 F. 2d 1061, — U.S. App. D.C. —).

§ 4-116. Police matrons—Appointments.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-117. Duties of police matrons.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(92) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-119. Duties of Board of Commissioners as head of police department.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS**Mandamus**

Without a full record of the trial, even if petitioner was constitutionally entitled to further protection of his rights during hospital staff conference held in connection with a pre-indictment mental examination requested by petitioner, it could not be said that presence of petitioner's counsel, as opposed to some alternative device such as recording some or all parts of conference, was an appropriate remedy, so that mandamus to compel an order against hospital to permit presence of petitioner's counsel was not available. *R. N. Thornton v. Hon. H. F. Corcoran* (1969, 407 F. 2d 695, 132 U.S. App. D.C. 232).

§ 4-121. Rules and regulations—Fine, suspension, or dismissal of police—Charges to be heard by trial board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(93) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules and regulations for the proper government, conduct, discipline, and good name of the police force and fixing penalties, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions es-

establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Administrative due process

Where it was arguable whether administrative officials of District of Columbia charged with determining suspended policeman's right to recover back pay had failed to exercise discretionary power vested in them by statute and it was also arguable whether, even if they did exercise their authority, they did so in such a way as to deprive him of administrative due process, court could not presume that policeman had right to be paid during period of his suspension and appropriate remedy was not a money judgment. *H. K. Guyton v. The District of Columbia, etc.* (D.C. App. 1968, 245 A. 2d 638).

§ 4-122. Trial board—Appointment—Hearings—Findings—Appeals—Existing rules and regulations ratified.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (94 and 95) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules of procedure before trial boards, and changing, altering, amending, or abolishing rules and regulations of the police force under the last proviso of this section, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-123. Commissioners and major and superintendent of police may administer oaths.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-124. Police surgeons—Qualifications—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-125. Affiliation with organizations advocating strikes, prohibited—Penalties—Conspiracy to interfere with operation of police force—Right of resignation restricted.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-127. Major and superintendent to make quarterly reports.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-129. Rewards, presents, fee, or emoluments to police officers—Notice to commissioners—Penalty for failure to give notice.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-130. Clothing to be uniform.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(96) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules for uniform clothing, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-131. Appropriations for clothing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-132a. Residence requirements of members of Police Force and Fire Department.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(97) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-133. Appointment of special police without pay.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-134. Records—General complaint files—Lost, missing, or stolen property—Personnel records of police.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(98) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (5) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS**Review by mandamus**

On a petition for mandamus, District court's ruling, in criminal case, denying defendant access to certain police records which he claimed were public records, and refusing to appoint private investigator, were not reviewable. *G. E. Ross, Jr. v. The Honorable J. J. Sirica, United States District Judge* (1967, 380 F. 2d 557, 127 U.S. App. D.C. 10).

§ 4-134a. Central criminal records.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(99) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) relating to traffic violations and other petty offenses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-134b. Reports by independent police.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-135. Records open to public inspection.**NOTES TO DECISIONS****Review by mandamus**

On a petition for mandamus, District court's ruling, in criminal case, denying defendant access to certain police records which he claimed were public records, and refusing to appoint private investigator, were not reviewable. *G. E. Ross, Jr. v. The Honorable J. J. Sirica, United States District Judge* (1967, 380 F. 2d 557, 127 U.S. App. D.C. 10).

§ 4-136. Police to have power of constables.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-137. Preservation and destruction of records.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-139. Discriminating laws not to be enforced.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-140. Arrests without warrant.

(a) An officer or member of the Metropolitan Police force may arrest without a warrant and take into custody any person who commits, or threatens or attempts to commit, in the presence of, or within the view of, such officer or member any breach of the peace or offense directly prohibited by an Act of Congress or by any other law in force in the District.

(b) An officer or member of the Metropolitan Police force may arrest a person without a warrant if he has probable cause to believe that such person (1) has committed or is about to commit any offense listed in subsection (c) of this section, and (2) unless immediately arrested, may not be apprehended, may cause injury to others or damage to property, or may tamper with, dispose of, or destroy evidence.

(c) The offenses referred to in subsection (b) of this section are—

(1) those offenses specified in the following sections of the Act of March 3, 1901: Section 806 (relating to assault) (D.C. Code, sec. 22-504), section 824 (relating to unlawful entry) (D.C. Code, sec. 22-3102), and section 829 (relating to receiving stolen goods) (D.C. Code, sec. 22-2205); and

(2) attempts to commit the offenses specified in the following sections of the Act of March 3, 1901: Section 823 (relating to housebreaking) (D.C. Code, sec. 22-1801), section 826 (relating to grand larceny) (D.C. Code, sec. 22-2201), and section 826b (relating to unauthorized use of vehicles) (D.C. Code, sec. 22-2204).

(R.S.D.C., 397, Dec. 27, 1967, Pub. L. 90-226, § 101, title I, 81 Stat. 734.)

AMENDMENT

1967—Section 101, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions of section prior to this amendment see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2201, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for amendments made by this Act, see enumeration in note above under heading "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

NOTES TO DECISIONS

Arrest without warrant

Although a police officer may make an arrest without a warrant for an offense committed in his presence, and incident thereto make a search for weapons, an arrest may not be used as a subterfuge to search for evidence of a crime. *J. R. West et ano. v. United States* (D.C. App. 1969, 249 A.2d 740).

Police officer may arrest without a warrant, for misdemeanor of destroying private property only when that crime is committed, or attempt is made to commit it, in his presence or view. *S. Smith and W. Jeffries v. United States* (D.C. App. 1968, 247 A.2d 293).

Officer had probable cause to arrest defendant who had been observed tearing up back seat of automobile which he admitted was not his on charge of destroying private property. *Id.*

Probable cause for arrest

A police officer in the District of Columbia has the power to make a warrantless arrest of a citizen when he has probable cause to believe that the citizen has committed felony or certain misdemeanors designated by statute, and the classic test for probable cause is whether the officer had knowledge of facts and circumstances which would warrant a prudent man in believing that an offense had been committed. *A. B. Clarke v. United States* (D.C. App. 1969, 256 A.2d 782).

§ 4-140a. Investigative arrests—Maximum period for questioning—Admissibility of confessions.

(a) Any person arrested in the District of Columbia may be questioned with respect to any matter for a period not to exceed three hours immediately following his arrest. Such person shall be advised of and accorded his rights under applicable law respecting any such interrogation. In the case of any such arrested person who is released without being charged with a crime, his detention shall not be recorded as an arrest in any official record.

(b) Any statement, admission, or confession made by an arrested person within three hours immediately following his arrest shall not be excluded from evidence in the courts of the District of Columbia solely because of delay in presentment. (Dec. 27, 1967, Pub. L. 90-226, § 301, title III, 81 Stat. 735.)

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

CROSS REFERENCES

Federal laws with respect to admissibility of confessions in criminal prosecutions by the District of Columbia, see 18 U.S.C. § 3501.

Eye witness testimony in criminal prosecutions, admissibility of, see 18 U.S.C. § 3502.

Wiretap evidence, see 18 U.S.C. §§ 2510 to 2520.

§ 4-142. Information and return after arrest.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(100) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules and regulations regarding the written return of arrests, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-143. Penalty for neglect to make arrest.

If any member of the police force shall neglect making any arrest for an offense against the laws of the United States committed in his presence, he shall be deemed guilty of a misdemeanor and shall be punishable by imprisonment in the District jail or penitentiary not exceeding two years, or by a fine not exceeding \$500. A member of the police force who deals with an individual in accordance with section

24-524(b) shall not be considered as having violated this section. (R.S.D.C. § 400; Aug. 3, 1968, Pub. L. 90-452, § 2(b), 82 Stat. 618.)

AMENDMENT

1968—Section 2(b), act Aug. 3, 1968, Pub. L. 90-452, amended the section by adding the last sentence as above set out.

SHORT TITLE

Section 1, act Aug. 3, 1968, Pub. L. 90-452, provided: That this Act (amending sections 4-143, 25-128, renumbering section 14 of the Act of Aug. 4, 1947, Ch. 472, as section 16, classified as section 25-111a, repealing section 24-514, striking out sections 1 to 13 of the Act of Aug. 4, 1947 and inserting new sections 1 to 15, classified as sections 24-521 to 24-535 may be cited as the "District of Columbia Alcoholic Rehabilitation Act of 1967").

§ 4-144. Detention of witnesses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(101) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-145. Authority for search and arrest in cases of gaming-houses, bawdy-houses, and deposit or sale of lottery tickets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-148. Examination of books and premises of certain establishments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-150a. False or fictitious reports to Metropolitan Police—Penalty.

Whoever shall make or cause to be made to the Metropolitan Police force of the District of Columbia, or to any officer or member thereof, a false or

fictitious report of the commission of any criminal offense within the District of Columbia, or a false or fictitious report of any other matter or occurrence of which such Metropolitan Police force is required to receive reports, or in connection with which such Metropolitan Police force is required to conduct an investigation, knowing such report to be false or fictitious; or who shall communicate or cause to be communicated to such Metropolitan Police force, or any officer or member thereof, any false information concerning the commission of any criminal offense within the District of Columbia or concerning any other matter or occurrence of which such Metropolitan Police force is required to receive reports, or in connection with which such Metropolitan Police force is required to conduct an investigation, knowing such information to be false, shall be punished a fine of not exceeding \$300 or by imprisonment not exceeding thirty days. (Dec. 27, 1967, Pub. L. 90-226, § 608, title VI, 81 Stat. 739.)

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 4-155. Property clerk may administer oaths.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-156. Return of property by property clerk—Two or more claimants—Liability of property clerk—Property needed as evidence—Storage fees—Disposal after thirty days notice to owner.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(102) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (e) in relation to disposition of property under the proviso clause, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-158. Claims of third persons.

NOTES TO DECISIONS

Release of evidence

Notice should be given to an accused of any proposed release of evidence and court order should be obtained so that enough evidence may be retained to prevent any prejudice. *United States v. A. B. Averell, Jr., et al.* (1969, 269 F. Supp. 1004).

§ 4-159. Property coming into possession of police to be transmitted to property clerk—Disposition of property of deceased and incompetent persons—Storage of property—Fees for storage and custody of property—Sale of stored property—Deposit of collected fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(103) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) in relation to disposition of property under clause (b), to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-160. Sales at public auction—Procedure—Sales of motor vehicles with liens of record—Notice to lienors and lienees—Abandonment of liens—Notice to Recorder of Deeds—Application of proceeds of sale—Deposit of moneys in Treasury—Moneys and other property of insane persons excepted.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(104) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) in relation to disposition of property, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-163. Delivery of property to owner pending trial.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-171a. Private detectives required to give bond—Conditions of bond—Suits on bond by injured persons.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(105) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this sec-

tion in relation to the bonding provisions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-174. Police laws and regulations applicable to private detectives.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-177. Police code—Publication authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-178. Legal effect of police code.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-182. Police Department band—Director.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-186. Bonding of Metropolitan Police.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA
COUNCIL

Section 402(106) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 4.—FIRE DEPARTMENT

§ 4-401. Fire department to embrace entire District of Columbia—Property of department to be assigned and located by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-402. Commissioners to have exclusive jurisdiction—Rules and regulations—Appointments to be under civil service—Selection of chief engineer and deputy chief engineers—Original appointment and promotion of privates—Vacancies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA
COUNCIL

Section 402(107) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as making, altering, or amending rules and regulations relating to officers and members of the fire department, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-403. Age limits on original appointments.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA
COUNCIL

Section 402(108) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-404. Two-platoon system—Classification of officers—Police surgeons to attend members of fire department—May call veterinary surgeon—Transfer to new grades.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-404a. Workweek established—Hours—Days off—Holidays—Exceptions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-406. Appropriations for clothing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-407. Resignation from service—Membership in organization using strike methods prohibited—Conspiracy to obstruct operations of department—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-411. Use of equipment for volunteer fire organizations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA
COUNCIL

Section 402(109) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-413. Apparatus—Construction.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-414. Reciprocal agreements for mutual aid.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(110) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 5.—POLICEMEN AND FIREMEN'S RETIREMENT AND DISABILITY

§ 4-505. Commissioners to determine amount of pension relief.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-521. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

NOTES TO DECISIONS

Additional evidence on rehearing

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, and it was determined that officer was entitled to reconsideration of his case because Board failed to make any findings to sustain its conclusion

that disability was not work related, and in the meantime functions of Board had been transferred to single Commissioner, commonly referred to as the Mayor, parties were entitled to submit additional evidence on reconsideration by the single Commissioner. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Findings by Board required

Where police officer was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, action of Board was entitled to weight, but only if there were relevant findings and findings in turn were supported by adequate evidence, and findings must be enough to indicate that consideration was given by Board to claims of fact put forward by officer especially where his claims had at least some appearance of reasonableness and substantiality. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, essential findings by Board were required to be detailed only once by Board. *Id.*

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, officer was entitled to reconsideration, in absence of findings by Board, which merely registered its conclusion that disability of officer was not work related. *Id.*

Proof of non-service-connected disability

Where it is District of Columbia police department which initiates proceeding to retire officer against his will and for a disability which is alleged to be unrelated to his official service, the evidence of such lack of connection should clearly preponderate and be substantial and persuasive. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, determination that officer's disability was not related to his service was required to be supported by substantial and persuasive evidence and was required to be supported by findings of board setting forth material facts. *Id.*

§ 4-522. United States Secret Service Division—Transfer of Civil Service retirement funds—Credit for prior service with other police units.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-523. Creditable service—Military and other government service.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-524. Deductions, deposits and refunds—Order of persons entitled to refunds for deductions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-525. Medical and hospital service—Payment of by District on certificate of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-526. Retirement for disability not incurred in performance of duty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-527. Retirement for disability while performing or not performing duty.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-528. Optional retirement—Conditions—Suspension of retirement provisions during emergency.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-529. Involuntary separation from service.

TRANSFER OF FUNCTIONS

Part IV of Org. Ord. No. 12, dated Aug. 6, 1968, set out in Appendix to title 1, delegated the authority, to express a judgment as to the disability of a member from performing further duty in his department, to the Police and Firemen's Retirement and Relief Board.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

NOTES TO DECISIONS

Additional evidence on rehearing

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, and it was determined that officer was entitled to reconsideration of his case because Board failed to make any findings to sustain its conclusion that disability was not work related, and in the meantime functions of Board had been transferred to single Commissioner, commonly referred to as the Mayor, parties were entitled to submit additional evidence on reconsideration by the single Commissioner. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Findings by Board required

Where police officer was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, action of Board was entitled to weight, but only if there were relevant findings and findings in turn were supported by adequate evidence, and findings must be enough to indicate that consideration was given by Board to claims of fact put forward by officer especially where his claims had at least some appearance of reasonableness and substantiality. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, essential findings by Board were required to be detailed only once by Board. *Id.*

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, officer was entitled to reconsideration, in absence of findings by Board, which merely registered its conclusion that disability of officer was not work related. *Id.*

Proof of non-service-connected disability

Where it is District of Columbia police department which initiates proceeding to retire officer against his will and for a disability which is alleged to be unrelated to his official service, the evidence of such lack of connection should clearly preponderate and be substantial and persuasive. *L. C. Wingo v. W. E. Washington et al.* (1968, 395 F. 2d 633, 129 U.S. App. D.C. 410).

Where police officer in District of Columbia was discharged for mental disability allegedly not caused or aggravated in line of duty following hearing before Police and Firemen's Retirement and Relief Board, so that he was not entitled to pension, determination that officer's disability was not related to his service was required to be supported by substantial and persuasive evidence and was required to be supported by findings of board setting forth material facts. *Id.*

§§ 4-530, 4-531.

SECTIONS REFERRED TO IN U.S. CODE

These sections are referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-532. Funeral expenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-533. Duties of Commissioners in retirement and annuity matters—Certification of physical condition of member—Written notice of hearing—Procedure at hearings—Subpena—Contempt proceedings.

TRANSFER OF FUNCTIONS

Part IV of Org. Ord. No. 12, dated Aug. 6, 1968, set out in the Appendix to title I, designated the Police and Firemen's Retirement and Relief Board as agent for the Commissioner, to make all findings of fact necessary in the determination of eligibility for retirement and survivor annuities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-534. Payment of annuities—Order of payment on death of annuitant—Waiver.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

§ 4-535. Delegation of functions by Commissioners—Regulations.

TRANSFER OF FUNCTIONS

Part IV of Org. Ord. No. 12, dated Aug. 6, 1968, set out in Appendix to title 1, designated the Police and Firemen's Retirement and Relief Board as agent for the

Commissioner, to make all findings of fact necessary in the determination of eligibility for retirement and survivor annuities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 6308 and 8101 of the U.S. Code.

Chapter 8.—SALARIES

Sec.

4-823d-2. Adjustment of rates of basic compensation of officers and members to whom section 4-823 applies—Initial advancement to longevity steps.

§ 4-802. Salary increase denied if service unsatisfactory—Removal for inefficiency—Additional compensation for efficiency.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(111) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section regarding the selection and reporting of names of privates and sergeants possessed of outstanding efficiency, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-807. Additional compensation for working on holidays.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(112) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section regarding additional compensation for working on holidays, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-808. Holiday defined.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(113) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-823. Salary Schedules—Rates of basic compensation of officers and members of Metropolitan Police Force and Fire Department.

officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia shall be fixed in accordance with the following schedule of rates:

The annual rates of basic compensation of the

SALARY SCHEDULE

Salary class and title	Service step						Longevity step increases		
	1	2	3	4	5	6	A	B	C
Class 1:									
Subclass (a)----- Fire private. Police private.	\$8,000	\$8,200	\$8,400	\$8,600	\$8,940	\$9,280	\$9,620	\$9,960	\$10,300
Subclass (b)----- Private assigned as: Technician I. Plainclothesman.	8,290	8,490	8,690	8,890	9,230	9,570	9,910	10,250	10,590
Subclass (c)----- Private assigned as: Technician II. Station clerk. Motorcycle officer.	8,580	8,780	8,980	9,180	9,520	9,860	10,200	10,540	10,880
Class 2:									
Subclass (a)----- Fire inspector.	8,940	9,280	9,620	9,960			10,300	10,640	10,980
Subclass (b)----- Fire inspector assigned as technician I.	9,230	9,570	9,910	10,250			10,590	10,930	11,270
Subclass (c)----- Fire inspector assigned as technician II.	9,520	9,860	10,200	10,540			10,880	11,220	11,560
Class 3:									
Assistant marine engineer----- Assistant pilot. Detective.	9,570	9,910	10,250	10,590			10,930	11,270	11,610
Class 4:									
Subclass (a)----- Fire sergeant. Police sergeant.	10,175	10,515	10,855	11,195			11,535	11,875	12,215
Subclass (b)----- Detective sergeant.	10,485	10,825	11,165	11,505			11,845	12,185	12,525
Subclass (c)----- Police sergeant assigned as motorcycle officer.	10,555	10,895	11,235	11,575			11,915	12,255	12,595
Class 5:----- Fire lieutenant. Police lieutenant.	11,710	12,138	12,566	12,994			13,422	13,850	
Class 6:----- Marine engineer. Pilot.	12,781	13,209	13,637	14,065			14,493	14,921	
Class 7:----- Fire captain. Police captain.	13,852	14,387	14,922	15,457			15,992	16,527	
Class 8:----- Battalion fire chief. Police inspector.	15,994	16,529	17,064	17,599			18,134	18,669	
Class 9:									
Subclass (a)----- Deputy Fire Chief. Deputy Chief of Police.	18,671	19,206	19,741	20,276			20,811	21,346	
Subclass (b)----- Assistant Chief of Police. Assistant Fire Chief. Commanding officer of the White House Police. Commanding officer of the U.S. Park Police.	19,742	20,277	20,812	21,347			21,882	22,417	
Class 10:----- Fire Chief. Chief of Police.	24,000	24,535	25,070	25,605					

(Aug. 1, 1958, 72 Stat. 481, Pub. L. 85-584, title I, § 101; Oct. 24, 1962, 76 Stat. 1239, Pub. L. 87-882, § 1; Aug. 14, 1964, 78 Stat. 431, Pub. L. 88-426, title III, § 306(i) (6) ; Sept. 2, 1964, 78 Stat. 880, Pub. L. 88-575, title I, § 101; Nov. 13, 1966, 80 Stat. 1591, Pub. L. 89-810, title I, § 101; May 27, 1968, Pub. L. 90-320, § 1(a), 82 Stat. 140; May 27, 1968, Pub. L. 90-320, § 1(b), 82 Stat. 141.)

CODIFICATION

Act July 18, 1966, Pub. L. 89-504 was the Federal Employees Salary Act of 1966. Section 108(b), (c) and (d) of that Act related to increase in compensation by administrative action. Act Sept. 11, 1967, Pub. L. 90-83, which incorporates certain provisions of the above act into the new title 5 U.S.C., repeals the provisions of section 108(b), (c) and (d), as executed without prejudice to existing rights.

AMENDMENTS

1968—Section 1(a), act May 27, 1968, Pub. L. 90-320, amended the salary schedule in this section. For its provision see section 1(a) of Pub. L. 90-320.

Section 1(b) of the same act amended the salary schedules to read as above set out.

EFFECTIVE DATE OF PUB. L. 90-320

Section 1(b) of act May 27, 1968, Pub. L. 90-320, provided:

"Effective on the first day of the first pay period beginning on or after July 1, 1968, such salary schedule is amended as follows:" The provisions of the amended schedule are set out above.

Section 9 of act May 27, 1968, provided:

"(a) Except as provided in subsection (b) of the first section (amendment of sec. 4-823) and in subsection (b) of this section (amendment of sec. 4-105), the effective date of this Act (amending secs. 4-105, 4-823, 4-832(a), enacting secs. 4-823d-2, and secs. 4, 5, 7 and 8 of this Act set out as notes to sec. 4-823) shall be the first day of the first pay period beginning on or after Oct. 1, 1967.

"(b) The effective date of the amendment made by section 6 of this Act (§ 4-105) shall be the date of the enactment of this Act." [May 27, 1968]

CHANGING TITLE OF THE POSITIONS OF DETECTIVE AND DETECTIVE SERGEANT ETC.

Section 4 of act May 27, 1968, Pub. L. 90-320, provided:

The Commissioner of the District of Columbia (or his delegate) may not as a part of any reorganization of the Metropolitan Police force or through any other administrative action—

(1) change the title of the positions of Detective and Detective Sergeant in salary classes 3 and 4, respectively, of the salary schedule contained in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4-823),

(2) change the job description or duties of such positions as in effect on the effective date of this Act, or

(3) deny any individual serving in the position of Detective on the effective date of this Act reasonable opportunities to advance to the position of Detective Sergeant, or transfer such individual without his consent to any other position,

so long as any individual serving in the position of Detective on the effective date of this Act is serving in such position.

CONDITIONS FOR PERMANENT PROMOTIONS IN CERTAIN CASES

Section 5 of act May 27, 1968, Pub. L. 90-320, provided:

Any officer or member of the Metropolitan Police force, the White House Police force, the United States Park Police force, or the Fire Department of the District of Columbia who—

(1) successfully completed a written examination required for promotion to a position in such force or Department,

(2) was placed on a list of individuals eligible for a permanent promotion to such position,

(3) was assigned to serve in such position on an "acting" basis, and

(4) on January 1, 1968, had served at least 5 years in such position on such basis,

shall be given a permanent promotion, as of the effective date of this Act, to such position without the administration of any other written examination.

RETROACTIVE COMPENSATION AND GROUP INSURANCE PROVISIONS OF ACT MAY 27, 1968, PUBLIC LAW 90-320

Sections 7 and 8 of the above described Act provided:

(a) Retroactive compensation or salary shall be paid by reason of this Act only in the case of an individual in the service of the District of Columbia government or of the United States (including service in the Armed Forces of the United States) on the date of enactment of this Act, except that such retroactive compensation or salary shall be paid (1) to an officer or member of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, or the White House Police force, who retired during the period beginning on the first day of the first pay period which begins on or after October 1, 1967, and ending on the date of enactment of this Act, for services rendered during such period, and (2) in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code (relating to settlement of accounts of deceased employees), for services rendered during the period beginning on the first day of the first pay period which begins on or after October 1, 1967, and ending on the date of enactment of this Act, by an officer or member who dies during such period.

(b) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the Federal Government or the municipal government of the District of Columbia.

SEC. 8. For the purpose of determining the amount of insurance for which an officer or member is eligible under the provisions of chapter 87 of title 5, United States Code (relating to Government employees group life insurance), all changes in rates of compensation or salary which

result from the enactment of this Act shall be held and considered to be effective as of the date of enactment of this Act. [May 27, 1968]

SALARY RATES FIXED BY ADMINISTRATIVE ACTION

Act Dec. 16, 1967, Pub. L. 90-206, 81 Stat. 633, Title II, § 211(b), (c), (d), provided:

"(b) Notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), the rates of pay of officers and employees of the Federal Government and of the municipal government of the District of Columbia whose rates of pay are fixed by administrative action pursuant to law and are not otherwise increased by this title are hereby authorized to be increased, effective on the effective date of section 202 of this title, by amounts not to exceed the increases provided by this title for corresponding rates of pay in the appropriate schedule or scale of pay.

"(c) Nothing contained in this section shall be held or considered to authorize any increase in the rates of pay of officers and employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

"(d) Nothing contained in this section shall affect the authority contained in any law pursuant to which rates of pay may be fixed by administrative action."

SHORT TITLE

Section 10 of act May 27, 1968, Pub. L. 90-320, provided:

"This Act may be cited as the 'District of Columbia Police and Firemen's Salary Act Amendments of 1968'". For amendments and enactments made by said Act, see Effective Date Note.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4-823d-2, 4-832.

§ 4-823d-2. Adjustment of rates of basic compensation of officers and members to whom section 4-823 applies—Initial advancement to longevity steps.

(a) The rates of basic compensation of officers and members to whom the amendments made by the first section of this Act apply shall be adjusted as follows:

(1) Except as otherwise provided in subsection (b) of this section, each officer and member receiving basic compensation immediately prior to the first day of the first pay period which begins on or after October 1, 1967, at one of the scheduled service or longevity rate of a salary class or subclass of a salary class in the salary schedule in section 4-823 (hereafter in this section referred to as the "salary schedule") shall receive a rate of basic compensation at the corresponding rate in effect on such day.

(2) Each officer and member receiving basic compensation immediately prior to the first day of the first pay period which begins on or after July 1, 1968, at one of the scheduled service or longevity rates of a salary class or subclass of a salary class in the salary schedule shall receive a rate of basic compensation at the corresponding rate in effect on such day.

(b) Initial advancement to longevity steps shall be made, as of the effective date of this Act, in the following manner:

(1) An officer or member who was serving in salary class 1 immediately prior to such date and who on such date had completed at least 10 but less than 13 years of service as a private shall be advanced to longevity step A in such salary class and such service shall be credited to him for advancement to longevity step B in such salary class under section 4-832.

(2) An officer or member who was serving in salary class 1 immediately prior to such date and who on such date had completed at least 13 but less than 16 years of service as a private shall be advanced to longevity step B in such salary class and such service shall be credited to him for advancement to longevity step C in such salary class under section 4-832.

(3) An officer or member who was serving in salary class 1 immediately prior to such date and who on such date had completed at least 16 years of service as a private shall be advanced to longevity step C in such salary class.

(4) An officer or member who was serving in service step 4 of salary class 2, 3, or 4 immediately prior to such date and who on such date had completed at least 156 but less than 208 calendar weeks of continuous active service in such step in such salary class shall be advanced to longevity step A in such salary class and such service shall be credited to him for advancement to longevity step B in such salary class under section 4-832.

(5) An officer or member who was serving in longevity step 7 of salary class 2, 3, or 4 immediately prior to such date and who on such date had completed at least 156 but less than 208 calendar weeks of continuous service in such step in such salary class shall be advanced to longevity step B in such salary class and such service shall be credited to him for advancement to longevity step C in such salary class under section 4-832.

(6) An officer or member who was serving in longevity step 8 of salary class 2, 3, or 4 immediately prior to such date and who on such date had completed at least 156 calendar weeks of continuous active service in such step in such salary class shall be advanced to longevity step C in such salary class.

(7) An officer or member who was serving in service step 4 of salary class 5, 6, 7, 8, or 9 immediately prior to such date and who on such date had completed at least 156 but less than 208 calendar weeks of continuous active service in such step in such salary class shall be advanced to longevity step A in such salary class and such service shall be credited to him for advancement to longevity step B in such salary class under section 4-832.

(8) An officer or member who was serving in longevity step 7 of salary class 5, 6, 7, 8, or 9 immediately prior to such date and who on such date had completed at least 156 calendar weeks of continuous active service in such step in such salary class shall be advanced to longevity step B in such salary class.

Each such officer or member shall receive the appropriate scheduled rate of basic compensation for the longevity step to which he was advanced under this subsection. In computing the service of an officer or member for purposes of this subsection, only periods of satisfactory service as an officer or member and periods of satisfactory service in the Armed Forces of the United States shall be included. (May 27, 1968, Pub. L. 90-320, § 2, 82 Stat. 142.)

REFERENCE IN TEXT

The expression "to whom the amendments made by the first section of this Act apply", in subsec. (a) has reference to the Act of May 27, 1968, Pub. L. 90-320, which amended the salary schedules of sec. 4-823.

EFFECTIVE DATE OF PUB. L. 90-320

Section 9 of act May 27, 1968, provided:

"(a) Except as provided in subsection (b) of the first section (amendment of sec. 4-823) and in subsection (b) of this section (amendment of sec. 4-105), the effective date of this Act (amending secs. 4-105, 4-823, 4-832(a), enacting secs. 4-823d-2, and secs. 4, 5, 7 and 8 of this Act set out as notes to sec. 4-823) shall be the first day of the first pay period beginning on or after October 1, 1967.

"(b) The effective date of the amendment made by section 6 of this Act (sec. 4-105) shall be the date of the enactment of this Act." [May 27, 1968]

§ 4-825. Positions to be included as Technician I.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-828. Authority to establish and determine, positions to be included as Technicians in Class 1 and 2 in section 4-823—Exception.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-831. Demotion—Rate of compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-832. Longevity step increases—Conditions—Frequency of increases—Maximum increases—Date of beginning of step increases—Manner of crediting satisfactory service rendered prior to effective date of sections 4-823 and 4-824 to 4-837.

(a) In recognition of long and faithful service, each officer and member, except the Chief of Police and Fire Chief, shall receive an amount (to be known as a longevity step increase) in addition to the rate of compensation prescribed in the salary schedule in section 4-823 for the maximum scheduled service step in the subclass of the salary class in which he is serving, or for the salary class in which he is serving if there are no subclasses in his salary class, for each 156 calendar weeks of continuous service completed

by him following the effective date of this subsection at such maximum rate or at a rate in excess thereof, without change to a higher salary class, subject to all of the following conditions:

(1) No officer or member shall receive more than one longevity step increase for any 156 calendar weeks of continuing service, and in order to be eligible therefor he shall have a current performance rating of 'satisfactory' or better.

(2) Not more than three successive longevity step increases may be granted to any officer or member in salary classes 1 through 4, nor more than two successive longevity step increases may be granted to any officer or member in salary classes 5 through 9.

(3) In the case of officers or members serving in salary class 1, each longevity step increase shall be equal to the increment between service step 4 and service step 5. In the case of officers or members serving in the other salary classes, each longevity step increase shall be equal to one step increase of the salary class or subclass of a salary class in which the officer or member is serving.

(4) Each longevity step increase shall begin on the first day of the first pay period following completion of each 156 weeks.

* * * * *

(As amended May 27, 1968, Pub. L. 90-320, § 3, 82 Stat. 144.)

AMENDMENT

1968—Section 3 of act May 27, 1968, Pub. L. 90-320, amended subsection (a) to read as above set out. The amendments reduced from 208 weeks to 156 weeks of continuous service for granting a longevity step increase; excepted the Chief of Police and Fire Chief from the provisions of the sub-section; provided that no more than two successive longevity step increases may be granted to any officer or member in salary classes 5 to 9; eliminated the following from clause (2): "nor shall any officer or member be granted a longevity step increase above the maximum scheduled longevity step in the subclass in which he is serving or, if there are no subclasses in his class, in the class in which he is serving"; eliminated from clause (3) the following: "Each longevity step increase shall be equal to one step increase of the class or subclass in which the officer or member is serving," and substituted the language set out in clause (3) above.

EFFECTIVE DATE OF PUB. L. 90-320

Section 9 of act May 27, 1968, provided:

"(a) Except as provided in subsection (b) of the first section (amendment of sec. 4-823) and in subsection (b) of this section (amendment of sec. 4-105) the effective date of this Act (amending secs. 4-105, 4-823, 4-832(a), enacting secs. 4-832d-2, and secs. 4, 5, 7 and 8 of this Act set out as notes to sec. 4-823) shall be the first day of the first pay period beginning on or after October 1, 1967.

"(b) The effective date of the amendment made by section 6 of this Act (sec. 4-105) shall be the date of the enactment of this Act." [May 27, 1968]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4-823d-2.

§ 4-835. Commissioners authorized to promulgate regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(114) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 4-837. Delegation of authority by Commissioners, Secretary of Treasury and Secretary of Interior—Exception.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 9.—MISCELLANEOUS PROVISIONS

§ 4-901. Memorial fountain to members of Metropolitan police department.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 4-904. Establishment of workweek for officers and members of Metropolitan Police, United States Park Police and White House Police—Definitions—Compensatory time—Overtime pay.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 4-905 to 4-909. Repealed. Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-554, § 8(a).

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(115) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, regarding determination whether injury or disease resulted from the performance of duty, under section 4-909, subsection (b) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Section 4-909 to which this note relates was repealed and is now covered by section 5 U.S.C. 6324(b) (1).

TITLE 5.—BUILDING RESTRICTIONS AND REGULATIONS

Chapter 1.—ALLEY DWELLINGS

Sec.

5-117. Consolidation of low-rent public housing projects in the District of Columbia.

PRESIDENTIAL EXECUTIVE ORDER 11401

MODIFYING EXECUTIVE ORDER NO. 6868 OF OCTOBER 9, 1934, AS AMENDED, DESIGNATING THE AUTHORITY TO CARRY OUT THE PROVISIONS OF THE DISTRICT OF COLUMBIA ALLEY DWELLING ACT

Ex. Ord. No. 11401, Mar. 13, 1968, 33 F.R. 4559 provided:

By virtue of the authority vested in me by the District of Columbia Alley Dwelling Act, as amended (D.C. Code, §§ 5-103 to 5-116, inclusive), I hereby designate the Commissioner of the District of Columbia as the Authority to carry out the provisions of the said Act. Such Authority shall be deemed a continuation of the Authority heretofore designated under Executive Order No. 6868 of October 9, 1934, as amended. In carrying out his functions as such Authority, the Commissioner shall be known as the "National Capital Housing Authority".

The Assistant to the Commissioner of the District of Columbia shall, to the extent the Commissioner may direct, act for him in carrying out the functions of the Authority, and, during the absence or disability of the Commissioner or in the event of a vacancy in the office of Commissioner, the Assistant to the Commissioner shall act as the Authority.

Executive Order No. 6868 of October 9, 1934, as amended by Executive Orders Nos. 7784-A of January 5, 1938, 8033 of January 11, 1939, 9344 of May 21, 1943, 9916 of December 31, 1947, and 10128 of June 2, 1950, is modified to the extent provided herein.

§ 5-104. Designation of the Authority—Powers—Approval of plans—Condemnation proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Evidence

Evidence in action for declaratory relief with respect to rights of grantor and grantees of quitclaim deed in and to two alleys situated in District of Columbia did not establish that alleys were, in fact, owned by the District of Columbia. *S. S. Zlotnick et ano. v. J. I. Benders & Sons, Inc.* (1968, 285 F. Supp. 548).

Evidence in action to determine rights in alleys established that defendant had trespassed on alley "B" and obstructed alley "A" in manner as to seriously interfere with plaintiffs' rights and in open and complete disregard of plaintiffs' rights. *Id.*

Injunction

Where neither plaintiffs nor defendant could permanently obstruct alley without permission of the other, injunction would issue to require defendant to remove concrete step from alley. *S. S. Zlotnick et ano. v. J. I. Benders & Sons, Inc.* (1968, 285 F. Supp. 548).

Where grantees had acquired all of grantor's right, title and interest in and to an easement in an alley and grantor had not established prescriptive easement

to maintain air shaft into alley, District Court would issue specific injunction to grantor to remove air shaft and to prohibit doors of grantor's building opening outwards into alley without express written permission of grantees. *Id.*

Parties in interest

Where District of Columbia was not party to action to determine rights of grantor and grantees of quitclaim deed to alley, decree would not be binding upon District of Columbia. *S. S. Zlotnick et ano. v. J. I. Benders & Sons, Inc.* (1968, 285 F. Supp. 548.)

§ 5-116. Loans authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-117. Consolidation of low-rent public housing projects in the District of Columbia.

All projects now operated and maintained by the National Capital Housing Authority pursuant to sections 5-103 to 5-111 are deemed to be low-rent housing projects and may be consolidated, pursuant to section 1415(6) of title 42 U.S. Code, into any contract for annual contributions covering projects maintained and operated pursuant to sections 5-112 to 5-116. (Aug. 1, 1968, Pub. L. 90-448, § 1711, title XVII, 82 Stat. 607.)

Chapter 2.—BUILDING LINES

§ 5-201. Building lines established on streets less than 90 feet wide.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-202. Condemnation proceedings to be instituted.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-204. Permits for extensions of buildings beyond building line.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-905.

§ 5-205. Existing buildings may project beyond established building line—Commissioners to have control of parkings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(116) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section regarding the care and preservation of parkings, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 3.—FIRE ESCAPES AND SAFETY PROVISIONS

§ 5-301. Fire escapes required on certain structures—Exceptions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(117) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to numbers and material, type, and construction of fire escapes, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-302. Fire escapes—Stairways—Hall and stair lights required on certain structures.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-303. When ten or more persons employed, fire escapes and other safety measures required.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-304. Alterations may be required to locate fire escapes or add additional ones.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(118) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-308. Penalty for violations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-309. Notice, what to contain.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-310. Notice, when deemed served—Fire escapes and other safety appliances may be provided by commissioners, when owner neglects—Costs to be lien on property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-311. Use of premises may be enjoined if not properly equipped with safety devices.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-313. Upon failure of owner to correct condition violative of law, commissioner may do so—Cost of correction, lien on property—Owner not relieved from criminal responsibility.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-314. Authorities permitted to enter property to inspect and correct wrongful conditions—Unlawful to interfere with inspection or correction—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-316. Commissioners of the District of Columbia may prescribe fees for inspection of certain buildings—Schedule of fees to be displayed—Fees deposited in treasury.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-317. Means of egress and fire safety appliances required in certain public buildings.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(119) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-318. Same—Occupancy prohibited after notice of noncompliance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-319. Same—Notice to owner requiring installation—Time for compliance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-320. Same—Penalty for noncompliance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-321. Same—Service of notice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-322. Same—Construction and installation by Commissioners on owner's noncompliance—Assessment of costs against buildings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

§ 5-323. Same—Injunction against unlawful use or occupation of building.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2302.

Chapter 4.—ZONING AND HEIGHT OF BUILDINGS

§ 5-404. Additions—Towers, spires, and domes—Theaters.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-405. Width of street to govern height—Business streets—Residence streets—Corner lots—Fire-proof requirements—Dean Tract—Restrictions and limitations applicable to specific property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(120) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the extent provided in par. 120, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-410. Applications for erection or alteration of buildings fronting on certain government property to be submitted to Commission of Fine Arts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-905, 7-944 and 7-951.

§ 5-411. Plats of restricted area to be prepared.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(121) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-905, 7-944 and 7-951.

§ 5-412. Zoning Commission created—Membership—Assignment of employees.

TRANSFER OF FUNCTIONS WITH RESPECT TO ZONING COMMISSION

Section 404 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Zoning Commission functions of the members of the Board of Commissioners of the District of Columbia with respect to serving as members of the Zoning Commission (D.C. Code, sec. 5-412) are hereby transferred as follows:

"(a) Those of the President of the Board of Commissioners are transferred to the Chairman of the District of Columbia Council.

"(b) Those of the Engineer Commissioner are transferred to the Commissioner of the District of Columbia.

"(c) Those of the other member of the Board of Commissioners are transferred to the Vice Chairman of the Council."

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"*Status of certain agencies.* (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- "(1) Board of Education (including the public school system).
- "(2) Board of Library Trustees (including the public libraries).
- "(3) Recreation Board.
- "(4) Public Service Commission.
- "(5) Zoning Commission.
- "(6) Zoning Advisory Council.
- "(7) Board of Zoning Adjustment.
- "(8) Office of the Recorder of Deeds.
- "(9) Armory Board."

§ 5-415. Existing zoning regulations continued until amended—Public hearing on amendments—Notice—Contents.

NOTES TO DECISIONS

Classification

Validity of zoning classification, excluding high-rise construction, is not impaired by fact that classification adopted was not proposed in notice for hearing, while high-rise classification was proposed, where it did not appear that subject of the change was not aired at hearing, and zoning commission's reason for adopting exclusionary classification was unlikelihood that high-rise construction was then needed, and objecting party's predecessor, who owned property at time of zoning, did not object over period of years. *S. J. Gerstenfeld v. T. S. Jett et al.* (1967, 374 F. 2d 333, 126 U.S. App. D.C. 119).

§ 5-417. Zoning Advisory Council—Creation—Membership—Submission of amendments to zoning regulations.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"*Status of certain agencies.* (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

“(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- “(1) Board of Education (including the public school system)
- “(2) Board of Library Trustees (including the public libraries)
- “(3) Recreation Board
- “(4) Public Service Commission
- “(5) Zoning Commission
- “(6) Zoning Advisory Council
- “(7) Board of Zoning Adjustment
- “(8) Office of the Recorder of Deeds
- “(9) Armory Board”

§ 5-418a. Continued use and maintenance of existing chanceries—Construction, reconstruction, expansion or alterations in accordance with permits issued on or before February 18, 1964.

Nothing in the amendments made by section 5-418 shall prohibit—

- (1) the future or continued use of a building as a chancery or the making of ordinary repairs to any such building (A) for which negotiations had been entered into with a foreign government before October 13, 1964 to sell such building for use as a chancery, which negotiations resulted in the making of a contract on or before June 1, 1965, with such government to sell such building for such use or (B) for which lawful use as a chancery existed on October 13, 1964, or
 - (2) the construction, reconstruction, expansion, or alteration in accordance with any permit issued by the Board of Commissioners of the District of Columbia on or before February 18, 1964, of any building used or to be used as a chancery.
- (Oct. 13, 1964, 78 Stat. 1092, Pub. L. 88-659, § 2; July 21, 1968, Pub. L. 90-412, § 1(a) 82 Stat. 396.)

AMENDMENT

1968—Section 1(a) of act July 21, 1968, Pub. L. 90-412, amended par. (1) by inserting the clause beginning with (A) and ending with (B).

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-418c. Transfer or use of chanceries contrary to provisions of section 5-418 (a) to (e)—Exception.

After October 13, 1964, no building or chancery being used by a foreign government in the District of Columbia shall be transferred to or used by another foreign government unless such use is in accordance with section 5-418, as amended, or paragraph (1) of section 5-418a or unless such use was in accordance with applicable law at the time of this enactment. (Oct. 13, 1964, 78 Stat. 1092, Pub. L. 88-659, § 4; July 21, 1968, Pub. L. 90-412, § 1(b), 82 Stat. 396.)

AMENDMENT

1968—Section 1(b) of act July 21, 1968, Pub. L. 90-412, amended section by inserting after “section 5-418, as amended” the phrase “or paragraph (1) of section 5-418a.”

§ 5-420. Board of Zoning Adjustment—Creation, membership—Tenure—Regulations to govern organization and procedure—Appeal—Procedure, powers—Majority vote necessary.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

“*Status of certain agencies.* (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

“(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- “(1) Board of Education (including the public school system)
- “(2) Board of Library Trustees (including the public libraries)
- “(3) Recreation Board
- “(4) Public Service Commission
- “(5) Zoning Commission
- “(6) Zoning Advisory Council
- “(7) Board of Zoning Adjustment
- “(8) Office of the Recorder of Deeds
- “(9) Armory Board”

NOTES TO DECISIONS

Exception

A party aggrieved by a classification of District of Columbia Zoning Commission may be able to seek special exception before Board of Zoning Adjustment. *S. J. Gerstenfeld v. T. S. Jett et al.* (1967, 374 F. 2d 333, 126 U.S. App. D.C. 119).

§ 5-421. Maps and regulations of Zoning Commission—To be filed—Published.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-423. Enforcement of regulations—Power to adopt municipal regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-426. Appropriations authorized for Zoning Commission—Authority to employ—Compensation of Board of Zoning Adjustment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-428. Federal public buildings excepted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 5-429. Commissioners of the District of Columbia to prescribe fees for permits, certificates, and transcripts by inspector of buildings—Schedule of fees to be displayed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—UNSAFE STRUCTURES

§ 5-501. Structure reported unsafe, to be examined by Commissioners—If unsafe, notice to be given to make same secure—If safety requires, Commissioners may make secure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-502. If dangers not remedied, premises to be surveyed by three disinterested persons—Report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-503. Commissioners to make structure safe if responsible person does not—Owners or other interested persons not to interfere with Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-504. Nuisances to be abated—Notice given—Cost a lien on property—Penalty—Prosecution.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-505. Costs and expenses of removing nuisances to be determined by Commissioners and assessed against the property—Penalty for violation of sections 5-501 to 5-503.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-506. Payment and collection of costs and expenses—Interest—Sale of property for nonpayment after two years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-949.

§ 5-508. Structures found to be unsafe—Notice to owners and occupants—Use of unsafe structures may be prohibited—Penalty for violation of Commissioners order.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 6.—INSANITARY BUILDINGS

§ 5-616. Inspection by Commissioners—Condemnation—Delegation of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-617. Board for the Condemnation of Insanitary Buildings—Condemnation Review Board—Members—Procedure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-622. Owner's failure to comply with order—Repair or demolition by Board for the Condemnation of Insanitary Buildings—Payments of costs—Effect of appeal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-623. Litigation involving title to property—Notice—Report to Commissioners—Court order.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-626. Interference with work or inspection.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-628. Review of order—Application to Condemnation Review Board—Fee.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-633. Definitions—"Commissioners"—"Owner".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-634. Suits and proceedings under prior law—Time limits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 7.—HOUSING REDEVELOPMENT

Sec.

5-719a. Neighborhood development programs.

5-723. Same; Agency authorized to lease property—Limitations on other transfers—No transfer of funds required if property is acquired by District or Agency of United States—Owners of displaced business concerns to have priority in leasing privileges—Notification—Rent formula—Residual value of land.

§ 5-702. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-703. Establishment and powers of the Agency.

TRANSFER OF CERTAIN FUNCTIONS TO COMMISSIONER OF DISTRICT OF COLUMBIA

Sections 1 and 2 of Reorganization Plan No. 4 of 1968, effective May 23, 1968, provide:

SECTION 1. *Appointments.* (a) The functions of the President of the United States with respect to appointing certain members of the Board of Directors of the District of Columbia Redevelopment Land Agency (D.C. Code, sec. 5-703) are hereby transferred to the Commissioner of the District of Columbia.

(b) Nothing in this reorganization plan shall be deemed to terminate the tenure of any member of the Board of Directors of the District of Columbia Redevelopment Land Agency now in office.

SEC. 2. *Relationship of Board of Directors and Commissioner.* (a) There are transferred from the Board of Directors of the District of Columbia Redevelopment Land Agency to the Commissioner of the District of Columbia the functions of adopting, prescribing, amending and repealing bylaws, rules, and regulations for the exercise of the powers of the Board under D.C. Code, secs. 5-701 to 5-719 or governing the manner in which its business may be conducted (D.C. Code, sec. 5-703(b)).

(b) Any part of the functions transferred by this section may be delegated by the Commissioner to the Board. The complete plan is set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-705. General and project area redevelopment plans—Shaw Junior High School.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(122) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in relation to approving boundaries of project areas and redevelopment plans and modifications thereof, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-717a, 5-719a.

§ 5-706. Transfer, lease, or sale of real property in project area for public and private uses.

NOTES TO DECISIONS

Accessory uses

In a case where restrictions provided in an urban renewal plan on uses to which property involved might be put were specifically stated to be covenants running with land in favor of the owners of adjoining property, the owners of neighboring property with interest in proposing to lease space in buildings that they had erected and intended to erect for commercial purposes on neighboring land had standing to sue as to what "accessory uses" were permitted. *L'Enfant Plaza North, Inc. v. District of Columbia Redevelopment Land Agency, et al.* (1969, 300 F. Supp. 426).

All administrative remedies had been exhausted in a case where the chairman of redevelopment land agency stated in letter that board interpreted phrase "accessory uses" as permitting accessory uses other than the two named and where acting director of bureau of licenses and inspections stated that ordinarily if redevelopment land agency notified the bureau that proposed use conformed to urban renewal plan bureau would issue certificate of occupancy for use, and there existed an actual controversy for decision by the courts. *Id.*

An interpretation that phrase "accessory uses" permitted accessory uses other than those named in provision in urban renewal plan, allowing owner of land in question to erect building limited to offices and accessory uses such as employee restaurants and off-street parking necessary to serve primary uses, was not unreasonable or erroneous and would not be upset. *Id.*

§ 5-707. Housing for displaced families.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-711. Modification of redevelopment plans.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(122) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in relation to approving boundaries of project areas and redevelopment plans and modifications thereof, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-715. Appropriations authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-716. Acquisition under District of Columbia Alley Dwelling Act.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-717a. Acceptance of financial assistance authorized.

(a) As an alternative method of financing its authorized operations and functions under the provisions of sections 5-701 to 5-719 (in addition to that provided in section 5-715), the Agency is hereby authorized and empowered to accept financial assistance from the Secretary of Housing and Urban Development (hereinafter in this section referred to as the Secretary), in the form of advances of funds, loans, and capital grants pursuant to title I of the Housing Act of 1949, as amended, to assist the Agency in acquiring real property for redevelopment of project areas and carrying out any functions authorized under sections 5-701 to 5-719 for which advances of funds, loans, or capital grants may be made to a local public agency under title I of the Housing Act of 1949, as amended, and the Agency, subject to the approval of the District Commissioners and sub-

ject to such terms, covenants, and conditions as may be prescribed by the Secretary pursuant to title I of the Housing Act of 1949, as amended, may enter into such contracts and agreements as may be necessary, convenient, or desirable for such purposes.

(b) Subject to the approval of the District Commissioners, the Agency is authorized to accept from the Secretary advances of funds for surveys and plans in preparation of a project or projects authorized by sections 5-701 to 5-719 which may be assisted under title I of the Housing Act of 1949, as amended, and the Agency is authorized to transfer to the Planning Commission so much of the funds so advanced as the District Commissioners shall determine to be necessary for the Planning Commission to carry out its functions under sections 5-701 to 5-719 with respect to the project or projects to be assisted under title I of the Housing Act of 1949, as amended.

(c) The District Commissioners are authorized to include in their annual estimates of appropriations items for administrative expenses which, in addition to loan or other funds available therefor, are necessary for the Agency in carrying out its functions under this section.

(d) Notwithstanding the limitation contained in the last sentence of section 110(d) or in any other provision of title I of the Housing Act of 1949, as amended, the Secretary is authorized to allow and credit to the Agency such local grants-in-aid as are approvable pursuant to said section 110(d) with respect to any project or projects undertaken by the Agency under a contract or contracts entered into under this section and assisted under title I of the Housing Act of 1949, as amended. In the event such local grants-in-aid as are so allowed by the Secretary are not sufficient to meet the requirements for local grants-in-aid pursuant to title I of the Housing Act of 1949, as amended, the District Commissioners are hereby authorized to enter into agreements with the Agency, upon which agreements the Secretary may rely, to make cash payments of such deficiencies from funds of the District of Columbia. The District Commissioners shall include items for such cash payments in their annual estimates of appropriations, and there are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such cash payments. Any amounts due the Secretary pursuant to any such agreements shall be paid promptly from funds appropriated for such purpose.

(e) All receipts of the Agency in connection with any project or projects financed in accordance with this section with assistance under title I of the Housing Act of 1949, as amended, whether in the form of advances of funds, loans, or capital grants made by the Secretary to the Agency, or in the form of proceeds, rentals, or revenues derived by the Agency from any such project or projects, shall be deposited in the Treasury of the United States to the credit of a special fund or funds, and all moneys in such special fund or funds are hereby made available for carrying out the purposes of sections 5-701 to 5-719 with respect to such project or projects, including the payment of any advances of funds or

loans, together with interest thereon, made by the Secretary or by private sources to the Agency. Expenditures from such fund shall be audited, disbursed, and accounted for as are other funds of the District of Columbia.

(f) With respect to any project or projects undertaken by the Agency which are financed in accordance with this section with assistance under title I of the Housing Act of 1949, as amended—

(1) sections 5-702(f), 5-702(k), and 5-706

(g), and the last sentence of section 5-705(b)

(2) shall not be applicable to those pieces of real property which, in accordance with the approved project area redevelopment plan, are to be devoted to public housing to be undertaken under Public Law 307, Seventy-third Congress, approved June 12, 1934, as amended;

(2) the site and use plan for the redevelopment of the area, included in the redevelopment plan of the project area pursuant to section 5-705(b) (2), shall include the approximate extent and location of any land within the area which is proposed to be used for public housing to be undertaken under Public Law 307, Seventy-third Congress, approved June 12, 1934, as amended;

(3) notwithstanding any other provisions of sections 5-701 to 5-719 the Agency, pursuant to section 5-706(a), shall have power to transfer to and shall at a practicable time or times transfer by deeds to the National Capital Housing Authority those pieces of real property which, in accordance with the approved project area redevelopment plan, are to be devoted to public housing to be undertaken under Public Law 307, Seventy-third Congress, approved June 12, 1934, as amended, and, in accordance with the requirements of section 107 of the Housing Act of 1949, the National Capital Housing Authority shall pay for the same out of any of its funds available for such acquisition.

(g) It is the purpose and intent of this section to authorize the District Commissioners and the appropriate agencies operating within the District of Columbia to do any and all things necessary to secure financial aid under title I of the Housing Act of 1949, as amended. The District of Columbia Redevelopment Land Agency is hereby declared to be a local public agency for all of the purposes of title I of the Housing Act of 1949, as amended. As such a local public agency for all of the purposes of title I of the Housing Act of 1949, as amended, the Agency is also authorized to borrow money from the Secretary or from private sources as contemplated by title I of the Housing Act of 1949, as amended, to issue its obligations evidencing such loans, and to pledge as security for the payment of such loans and the interest thereon, the property, income, revenues, and other assets acquired in connection with the project or projects financed in accordance with this section with assistance under title I of the Housing Act of 1949, as amended, but such obligations or such pledge shall not constitute a debt or obligation of either the United States or of the District of Columbia.

(h) Nothing contained in this section or in sections 5-701 to 5-719 shall relieve the Secretary

of his responsibilities and duties under section 105 (c) or any other section of the Housing Act of 1949, as amended. The Secretary shall not enter into any contract of financial assistance under title I of this Act with respect to any project of the District of Columbia Redevelopment Land Agency for which a budget estimate of appropriation was transmitted pursuant to law and for which no appropriation was made by the Congress.

(i) In addition to its authority under any other provision of sections 5-701 to 5-719, the Agency is hereby authorized to plan and undertake urban renewal projects (as such projects are now or may hereafter be defined in title I of the Housing Act of 1949, including but not limited to projects authorized without regard to the residential or non-residential character or reuse of the urban renewal area), and in connection therewith the Agency, the District Commissioners, the National Capital Planning Commission, and the other appropriate agencies operating within the District of Columbia shall have all of the rights and powers which they have with respect to a project or projects financed in accordance with the preceding subsections of this section: *Provided*, That for the purpose of this subsection the word "redevelopment" wherever found in sections 5-701 to 5-719 (except in section 5-702 (n)) shall mean "urban renewal", and the references in section 5-705 to the acquisition, disposition, or assembly of real property for a project shall mean the undertaking of an urban renewal project.

(j) The District Commissioners are hereby authorized to prepare a workable program as prescribed by section 101(c) of the Housing Act of 1949, as amended, and are also authorized to request the necessary funds for the preparation of said workable program. The Commissioners may request the participation of the Agency in the preparation of said workable program and may include in their annual estimates of appropriations such funds as may be required by the Commissioners or the Agency, or both, for this purpose. The District Commissioners are hereby authorized, with or without reimbursement, to cooperate with the Agency in carrying out urban renewal projects and to utilize for that purpose the facilities and personnel of the District of Columbia under agreement with the Agency. (Aug. 2, 1946, ch. 736, § 20 as added July 15, 1949, 63 Stat. 441, ch. 338, title VI, § 609, and amended Aug. 2, 1954, 68 Stat. 630, ch. 649, title III, § 316; Aug. 10, 1965, Pub. L. 89-117, title III, § 317, 79 Stat. 484; May 25, 1967, Pub. L. 90-19, § 3, 81 Stat. 20.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, referred to in the text, is classified to 42 U.S.C. §§ 1451 to 1460.

Sections 101(c), 105(c), 107, and 110(d), of the Housing Act of 1949, referred to in the text, are classified respectively to 42 U.S.C. §§ 1451(c), 1455(c), 1457, and 1460(d).

AMENDMENTS

1967—Sec. 3, of act May 25, 1967, amended section by striking out "Housing and Home Finance Administrator (hereafter in this section referred to as the Administrator)" in subsection (a) and inserting in lieu "Secretary of Housing and Urban Development (hereinafter in this section referred to as the Secretary)" and by striking out "Administrator" each place it appears and inserting in lieu "Secretary".

1965—Section 317, Pub. L. 89-117, amended the first full paragraph (subsection i) of section 316(2) of the Act of Aug. 2, 1954, 68 Stat. 630, ch. 649 (which added subsections (i) and (j)), by striking out the first parenthetical clause and inserting in lieu thereof a new parenthetical clause to read as above set out in subsection (i). The clause that was stricken read as follows: (as such projects are defined in title I of the Housing Act of 1949, as amended.).

1954—Act Aug. 2, 1954, added "as amended" after "1949" wherever appearing, and added subsecs. (i) and (j).

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (123, 124 and 125) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (b) and (d) in the particulars specified in pars. 123, 124 and 125, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-717a, 5-719a.

§ 5-718. Effect upon existing statutes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(126) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) in relation to approving releases, modifications, and departures from features and details of approved redevelopment plans, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-719a. Neighborhood development programs.

Notwithstanding any requirement or condition to the contrary in section 5-705 or 5-717a(i) or in any other provision of law, the District of Columbia Redevelopment Land Agency may plan and undertake neighborhood development programs under part B of title I of the Housing Act of 1949 (as added by this section), subject to all of the provisions of sections 5-701 to 5-719 to the extent not inconsistent with such part B, and any such program shall be regarded as complying with the requirements of such sections 5-705 and 5-717a(i) and of such other pro-

vision of law if it meets the applicable requirements established under such part B. (Aug. 1, 1963, Pub L. 90-448, § 501(c), title V, 82 Stat. 520.)

REFERENCE IN TEXT

Part B of title I of the Housing Act of 1949 are sections 131 to 134, added by section 501(b) of title V, Act of Aug. 1, 1968, Pub. L. 90-448. For classification of these sections see tables in the U.S. Code. The parenthetical phrase "as added by this section" has reference to section 501(b) of the aforementioned act.

§ 5-720. Commissioners authorized to transfer to District of Columbia Redevelopment Land Agency certain property located in Maine Avenue area.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(127) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5-723, 5-724.

§ 5-721. Same; determination of necessity.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(128) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in appendix to title 1.

§ 5-722. Same; transfer of jurisdiction to Agency.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(129) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in appendix to title 1.

§ 5-723. Same; Agency authorized to lease property—

Limitations on other transfers—No transfer of funds required if property is acquired by District or Agency of United States—Owners of displaced business concerns to have priority in leasing privileges — Notification — Rent formula — Residual value of land.

* * * * *

(b) In connection with the leasing of the real property transferred to the Agency under the authority of sections 5-720 to 5-727, together with the leasing of any real property lying between such real property so transferred and the southerly or westerly line of Maine Avenue as the same may be relocated in connection with carrying out an urban renewal plan, the Agency is authorized and directed to provide to the owner or owners of any business concern displaced from the area described in section 5-720, a priority of opportunity to lease, either individually or as a redevelopment company solely owned by the owner or owners of one or more such business concerns, so much of such real property lying channelward of the southerly or westerly line

of Maine Avenue as so relocated, at a rental based on the use-value of the real property so leased determined in accordance with the provisions of section 5-709, and section 1460(c) (4) of title 42, U.S. Code, as may be required for the construction of commercial facilities at least substantially equal to the facilities from which such business concern was so displaced. The priority of opportunity created by this section is a personal right of the owners of businesses displaced. In the event of the death of any such owner of any such displaced business, the spouse of such owner, or, if there is no spouse, the children of such owner shall be entitled to exercise the priority of such owner in accordance with the provisions of this section, but in no event shall any such priority be otherwise transferable: *Provided, however,* That the spouse or the children, as the case may be, shall have no greater priority than the priority holder would have had if living. For the purposes of exercising such priority, the spouse or children, as the case may be, shall be deemed to be owner of such business concern so displaced. When the real property affected by the provisions of this subsection becomes available for leasing by the Agency, the Agency shall notify, in writing, the owners of the business concerns displaced, as to the availability of such real property for leasing to such owners in accordance with the provisions of this subsection. The Agency shall give such owners so notified a period of one hundred and eighty days to notify the Agency, in writing, of their intention to proceed in accordance with the general development plan of the Agency for the area lying channelward of Maine Avenue, as so relocated, and to demonstrate to the Agency their ability to carry out so much of such plan as may be embraced within the area which they desire to lease. If at the end of such period of one hundred and eighty days, such owners have failed to make a demonstration to that effect which is satisfactory to the Agency, the priority of opportunity provided by this subsection shall no longer continue to be available to such owners, except that if after the end of such one-hundred-and-eighty-day period the Agency shall change the terms under which real property is to be leased, or the redevelopment plan for the area described in section 5-720 is changed so as to affect the economic value of the leasehold, the Agency shall in writing notify each such owner of the change or changes so made and give to such owner so notified a period of sixty days within which to advise the Agency in writing of his intention and to demonstrate his ability to proceed as aforesaid.

(c) (1) Notwithstanding any other provision of law, whenever, pursuant to subsection (b), the Agency offers leaseholds to persons entitled to a priority of opportunity to lease under the provisions of this section, the annual rent prescribed in such lease shall not exceed an amount which is the greater of—

(A) an amount equal to 6 per centum of the residual value of the land for the prescribed use to which any owner of a displaced business concern shall put such land under such lease;

(B) the annual amount which the Agency shall be required to pay in principal and interest on a

forty-year loan of an amount equal to the residual value of the land under such lease which value is the residual value of the land which was determined by the Agency, in accordance with this subsection, and on the basis of which such land was initially leased under this section; or

(C) the sum of (i) the amount determined under subparagraph (A) or (B) of this paragraph, whichever is greater, and (ii) 50 per centum of the product of the occupancy cost factor for the class and character of the business of such lessee times the amount by which the lessee's actual annual gross sales income exceeds the estimated gross sales income (for the class and character of the displaced business) used by the Agency in determining the residual value of the land leased to such lessee.

In the case of any land which the Agency leases under this section, the annual rent prescribed by the Agency in the lease of such land shall not, during the forty-three-year period beginning on the date such land was first leased by the Agency under this section, be less than the amount determined under subparagraph (B) of this paragraph. In the case of any land which the Agency leases under this section to a displaced business, the residual value of such land—

(I) may be redetermined by the Agency after the expiration of twenty-five years from the date such land was first leased by the agency and at the end of each ten-year period thereafter, or

(II) shall be redetermined by the Agency if at the end of the twenty-five-year period from the date such land was first leased by the Agency or at the end of each ten-year period thereafter, the lessee requests the Agency to redetermine such residual value.

The residual value of such land shall make due allowance for the cost to the owner of the displaced business of all improvements and public charges on such land, and shall not exceed the maximum fair use value economically feasible to permit the reestablishment of a business of the class and character of such displaced business.

(2) Each business holding a lease under this Act shall furnish annually to the Agency (on such date as the Agency may by regulation prescribe) a copy of the sales tax return filed by such business under the District of Columbia Sales Tax Act, which copy was furnished to the business under section 47-2615(a). (As amended Dec. 6, 1967, Pub. L. 90-176, § 1, 81 Stat. 542.)

REFERENCES IN TEXT

This "Act" referred to in subsection (c) is the Act of Sept. 8, 1960, as amended by the Act of Dec. 6, 1967, Pub. L. 90-176 and set out as §§ 5-720 to 5-727. District of Columbia Sales Tax Act referred to in subsection (c) is the Act set out as title 47, ch. 26 of the D.C. Code.

AMENDMENTS

1967—Section 1, Act Dec. 6, 1967, Pub. L. 90-176, made the following amendments to the section:

(1) Struck out of the first sentence of subsection (b) "by reason of the enactment of Section 7-134,";

(2) Struck out of the former second sentence [now third sentence] of subsection (b) "by reason of the operation of section 7-134,";

(3) Inserted after the first sentence a new second sentence beginning with the word "The priority" and ending with "so displaced";

(4) Struck out the period at the end of the last sentence of subsection (b), inserted a comma and the matter beginning with the words "except that" and ending with "aforesaid";

(5) Added subsection (c).

§ 5-724. Same; reversion provisions.

Notwithstanding sections 5-720 to 5-723, if any of the real property transferred to the Agency under the authority of sections 5-720 to 5-727 is not leased by the Agency in accordance with an urban renewal plan approved by the Commissioners, or otherwise disposed of, on or before the date the Secretary of Housing and Urban Development makes the final Federal capital grant payment to the Agency for the project pursuant to title I of the Housing Act of 1949, as amended, then the right, title, and interest in and to so much of the said real property as is not so leased or otherwise disposed of by such date shall revert to the United States, subject to the exclusive control and jurisdiction of the Commissioners of the District of Columbia, and subject to the provisions of sections 8-115 and 8-116. (Sept. 8, 1960, 74 Stat. 872, Pub. L. 86-736, § 5; May 25, 1967, Pub. L. 90-19, § 17, 81 Stat. 25.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, as amended, referred to in the text, is classified to 42 U.S.C. § 1450 et seq.

AMENDMENT

1967—Sec. 17 of act May 25, 1967, amended section by striking out "Housing and Home Finance Administrator" and inserting in lieu thereof "Secretary of Housing and Urban Development".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-725. Same; Commissioners may not be required to transfer property needed for municipal purposes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-728. Commissioners of the District of Columbia authorized to provide relocation services to displaced persons and concerns as a result of actions by the United States or District Governments—Displaced persons to be given preference in vacancies occurring in Government houses within the District—Housing surveys authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-729. Same; relocation payments for reasonable and necessary moving expenses and actual direct losses of property resulting from displacement from property acquired by Commissioners for public works projects—Exception—Regulations—Limit on payments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(130) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to regulations for making relocation payments as specified in par. 130, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

CROSS REFERENCE

Federal Highway Relocation Assistance, see chapter 5, title 23, U.S. Code.

§ 5-730. Determination of available housing, for displaced persons, to be made prior to acquisition of real property for public works.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-732. Commissioners authorized to make regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(131) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-733. Commissioners authorized and directed on behalf of the United States to transfer to District of Columbia Redevelopment Land Agency all right, title and interest of the United States to certain real property consisting of a part of Maryland Avenue and other streets in the southwest area.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-735. Same; Agency authorized to transfer to District of Columbia its interest in certain rights of way located on parts of Thirteen-and-a-Half Street, E Street and Thirteenth Street Southwest, for a consideration of \$82,896.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 8.—PRESERVATION OF HISTORIC PLACES AND AREAS IN THE GEORGETOWN AREA

§ 5-801. Old Georgetown district created and defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-944 and 7-951.

§ 5-802. Restrictions imposed on alteration of buildings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967 transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-944 and 7-951.

§ 5-803. Review board established.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-944 and 7-951.

§ 5-804. Survey of district authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-944 and 7-951.

§ 5-805. Construction with other laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-944 and 7-951.

§ 5-806. Old Georgetown Market as historic landmark—Use as public market.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 9.—HORIZONTAL PROPERTY REGIMES

§ 5-910. Reference to plat.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-928. Regulations of the Board of Commissioners and the zoning commission.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(132) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 5-930. Supplemental provisions relating to sewer and water services.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 5-931. Authority of Board of Commissioners Under Reorganization Plan Numbered 5 of 1952.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 6.—HEALTH AND SAFETY

Chap.	Sec.
8. Air Pollution Control.....	6-811
14. Register of Blind Persons.....	6-1401

Chapter 1.—HEALTH DEPARTMENT— ORGANIZATION

§ 6-101. Director of public health—Appointment and duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-104. Sanitary inspectors, appointment, qualifications—Removal of subordinates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-106. Report by director of public health.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-107. Clerks to director of public health—Appointment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-114. Commissioners authorized to make health regulations and alter, amend, or repeal certain legalized ordinances.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(133) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-117. Tuberculosis Sanatoria under direction of Health Department.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-118. Commissioners to promulgate regulations to prevent spread of diseases.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(134) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in relation to promulgating rules and regulations to prevent and control the spread of communicable diseases, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-119. "Communicable disease" defined.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(135) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-119h. Penalties—Prosecutions—Imposition of conditions by court.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(136) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to prescribing penalties for violation of regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 3.—VITAL STATISTICS

§ 6-301. Births to be reported—Details of report—Certain stillbirths not to be reported—Receipt of report to be acknowledged to parent—Name of child—Delayed registrations—Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(137 and 138) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) and (b) in the particulars described in pars. 137 and 138, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 4.—DRAINAGE OF LOTS

§ 6-402. Notice to connect with water-mains and sewers to be given by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-404. Notice to nonresident—How given—Upon failure of owner, Commissioners to make such connections—Cost of connections by Commissioners' lien on property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—GARBAGE

§ 6-501. Regulations for the collection and disposal of garbage to be made by Commissioners—Penalties.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(139) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-502. Commissioners may contract for collection and disposal of garbage and refuse.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-503. Disposition by feeding to live stock.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-504. Collection and disposal of refuse a municipal function—Facilities to be purchased or leased—Sale of products—Employees to accept no gratuities—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-505. Incinerators for combustible refuse—Condemnation of site authorized—Alleys, highways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-506. Construction of incinerator authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-507. Commissioners to fix time when plant shall begin to function—Other methods of disposal prohibited—Sale of salvageable material—Rules and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(140) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the making of regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-509. Machinery and personnel authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-510. Appropriation authorized—Abandonment of leased plant.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-511. Use of incinerator by certain Maryland and Virginia municipalities authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(141) of Reorg. Plan. No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the extent specified in par. 141, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 6.—MANUFACTURE, RENOVATION, AND SALE OF MATTRESSES

§ 6-603. Tag requirements.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(142) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Co-

lumbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-606. Administration by director of public health—Commissioners to make regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 7.—PRIVIES

§ 6-703. Regulation of construction and maintenance.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(143) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 8.—AIR POLLUTION CONTROL

Sec.

6-801 to 804. Repealed.

6-811. Declaration of purpose.

6-812. Emission and air quality standards established by the District of Columbia Council.

6-813. Air pollution control program for the District of Columbia.

§§ 6-801 to 6-804. Repealed. July 30, 1968, Pub. L. 90-440, § 6, 82 Stat. 460.

Sections 1 to 4 of act Aug. 15, 1935, 49 Stat. 654, chapter 549, dealt with smoke prevention, regulations for enforcement and penalties. The subject matter is now covered by sections 6-811 to 6-813.

EFFECTIVE DATE OF REPEAL

Section 6 of act July 30, 1968, Pub. L. 90-440, provided: "Effective on the one hundred and eightieth day following the date of enactment of this Act [July 30, 1968] (enacting sections 6-811 to 6-813, amending section 11-742(a) and repealing sections 6-801 to 6-804); the Act approved August 15, 1935 (D.C. Code, secs. 6-801—6-804), is repealed."

§ 6-811. Declaration of purpose.

It is the purpose of this chapter to enable the District of Columbia Council and the Commissioner of the District of Columbia to take such action (including the adoption of air pollution control regulations of the type proposed in the model air pollution control ordinance adopted by the Metropolitan Washington Council of Governments) as may be necessary to protect and enhance the quality of the District of Columbia's air resources so as to promote the public health and welfare and the productive capacity of its population; to foster their comfort and convenience; and to increase the enjoyment of all of the attractions of the Nation's Capital. (July 30, 1968, Pub. L. 90-440, § 2, 82 Stat. 458.)

SHORT TITLE

Section 1 of act July 30, 1968, Pub. L. 90-440, provided: This Act (enacting sections 6-811 to 6-813, amending section 11-742(a), by adding clause (11) thereto and repealing sections 6-801 to 6-804) may be cited as the "District of Columbia Air Pollution Control Act".

§ 6-812. Emission and air quality standards established by the District of Columbia Council.

(a) (1) The District of Columbia Council (hereafter referred to in this chapter as the "Council") shall prescribe (A) within six months after July 30, 1968 regulations to control emissions in the District of Columbia of substances into the atmosphere, and (B) such other regulations to protect and improve air quality in the District of Columbia as it determines are necessary to carry out the purposes of this chapter.

(2) In carrying out clause (A) of paragraph (1) of this subsection, the Council shall prescribe regulations for the control of the following air pollution problems in the District of Columbia:

- (A) combustion of fuels at stationary sources,
- (B) solid waste disposal and salvage operations,
- (C) visible emissions,
- (D) process emissions, and
- (E) emissions from motor vehicles (including diesel driven vehicles).

The provisions of such regulations shall be at least as stringent as the provisions of the recommendations made by the Secretary of Health, Education, and Welfare for the control of such problems and contained in his recommendations for abatement of air pollution in the National Capital metropolitan area presented in January 1968 to the interstate air pollution abatement conference called under section 105(d) (1) (C) of the Clean Air Act (42 U.S.C. 1857d).

(3) The Council may review and make such revisions of regulations prescribed under this chapter as it determines are necessary to carry out the purposes of this chapter, except that any regulation prescribed under clause (A) of paragraph (1) of subsection (a) shall be so reviewed at least once every two years.

(4) The regulations prescribed by the Council under this chapter shall apply to any building, installation, or other property, which is located in the District of Columbia and which is under the jurisdiction of any department, agency, or instrumentality of the United States Government, only to the extent provided in Executive Order 11282 of May 26, 1966, any other Executive order of the President, and any Federal regulations, issued to carry out section 111 of the Clean Air Act (42 U.S.C. 1857f).

(5) The Council may impose in any regulation prescribed under this chapter a fine (not to exceed \$300) or imprisonment (not to exceed ninety days), or both, for a violation of such regulation; and may provide that if such violation is a continuing one, each day of such violation shall constitute a separate offense.

(b) In the formulation of any regulations under this chapter, the Council shall afford interested persons an opportunity to participate in the formulation of such regulations through submission of written data, views, or arguments with opportunity to present oral testimony and argument. The Council shall make its regulations under this chapter on the basis of the record established in proceedings held pursuant to this subsection. (July 30, 1968, Pub. L. 90-440, § 3, 82 Stat. 458.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6-813.

§ 6-813. Air pollution control program for the District of Columbia.

(a) The Commissioner of the District of Columbia (hereafter referred to in this chapter as the "Commissioner") shall take such action as may be necessary to prepare a comprehensive program for the control and prevention of air pollution in the District of Columbia. Such program shall provide for the administration and enforcement by the Commissioner of the regulations prescribed by the Council under section 6-812. As part of such program, the Commissioner—

(1) shall conduct research, investigations, experiments, training demonstrations, surveys, and studies, relating to the causes, effects, extent, prevention, and control of air pollution in the District of Columbia;

(2) shall collect and make available, through publications, educational and training programs, and other appropriate means, the results of, and other information pertaining to, the activities carried out under paragraph (1);

(3) shall establish, in accordance with such regulations as the Council may prescribe, such procedures as may be necessary to enable him (acting by himself or with air pollution control agencies of surrounding jurisdictions) to effectively deal with an air pollution emergency; and

(4) may advise, consult, cooperate, and enter into agreements with the governments and agencies of any State or political subdivision thereof adjacent to the District of Columbia and any interstate or other regional agency representing any such State or political subdivision to (A) establish cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and (B) establish such agencies as may be necessary to carry out such agreements.

(b) For the purpose of carrying out his duties under this chapter, the Commissioner may—

(1) delegate the performance of such duties to an agency of the government of the District of Columbia, designated or established by him;

(2) issue such orders as may be necessary to enforce the regulations prescribed by the Council under this chapter and enforce such orders by all appropriate administrative and judicial proceedings, including injunctive relief;

(3) hold hearings relating to the administration of this chapter;

(4) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract, or otherwise;

(5) receive and administer grants or gifts made for the purpose of carrying out the purposes of this chapter; and

(6) take any other action which may be necessary to carry out his duties under this chapter.

(July 30, 1968, Pub. L. 90-440, § 4, 82 Stat. 459.)

TRANSFER OF FUNCTIONS

For provisions regarding the duties of the Director of Public Health in relation to development of a program for the prevention and control of air pollution see Org. Ord. 141, set out in the appendix to title 1.

Chapter 9.—WEEDS AND PLANT DISEASES**§ 6-902. Removal of weeds by Commissioners.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 10.—BLACK-OUTS IN WAR TIME**§ 6-1001. Commissioners authorized to order black-outs—Regulations.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1002. Cooperation with Maryland and Virginia.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1006. Appointment of special police during war.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1007. Volunteer services for government of District during war.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1008. Evacuation from District during war.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1009. Establishment of organizations for civilian defense—Use of District of Columbia employees—Right of eminent domain—Funds for supplies and personnel—Hospitalization—Use of private property.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(145 and 146) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to make rules and regulations as provided in the preamble to the section, and to make regulations as provided in subsection (a), to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-1010. Penalties for violation of chapter.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(147) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-1013. Extent of power and duties of Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1014. Limitation on expenditures.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 11.—FEDERAL GOVERNMENT RESTAURANTS

§ 6-1101. Health regulations applicable to federal government restaurants—Exceptions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 12.—OFFICE OF CIVIL DEFENSE

§ 6-1202. Office of civil defense authorized—Director and other personnel—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1202a. Appointment of member of Metropolitan Police Department or member of Fire Department to position in office performing functions of Office of Civil Defense.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1203. Powers and duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 section 1304 of the U.S. Code.

§ 6-1206. Yearly report of activities and expenditures.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Com-

missioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 6-1207. Interstate civil defense compacts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 13.—CANCER AND MALIGNANT NEOPLASTIC DISEASES

§ 6-1301. Commissioners authorized to promulgate regulations requiring reports.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(148) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 6-1304. Penalties for violations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(149) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 14.—REGISTER OF BLIND PERSONS

Sec.

6-1401. Establishment of register—Council to prescribe regulations—Information to be contained in register.

6-1402. Reports regarding blind persons to be filed by public institutions, physicians, osteopaths and optometrists—Register to be confidential—Availability of abstracts or digests of register.

6-1403. Definitions.

6-1404. Liability of persons making reports.

§ 6-1401. Establishment of register—Council to prescribe regulations—Information to be contained in register.

That the Commissioner of the District of Columbia shall establish and maintain a register of blind persons residing in the District of Columbia. Such register shall, under regulations prescribed by the District of Columbia Council, provide information of such nature as will or may be of assistance in the planning of improved facilities and services for blind persons and in the restoration and conservation of sight. (Aug. 3, 1968, Pub. L. 90-458, § 1, 82 Stat. 633.)

EFFECTIVE DATE

Section 5 of act Aug. 3, 1968, Pub. L. 90-458, provided: "This Act (sections 6-1401 to 6-1404) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of the enactment."

TRANSFER OF FUNCTIONS

Establishment, maintenance and administration of a register of blind persons by the Department of Vocational Rehabilitation, see Org. Ord. No. 104, set out in the appendix to title 1.

§ 6-1402. Reports regarding blind persons to be filed by public institutions, physicians, osteopaths and optometrists—Register to be confidential—Availability of abstracts or digests of register.

Each—

(1) health, educational, and social service agency or institution operating in the District of Columbia and having in its care or custody (either full or part time), or rendering service to, any blind person,

(2) physician and osteopath licensed or registered by the District of Columbia who has in his professional care for diagnosis or treatment such a person, and

(3) optometrist licensed by the District of Columbia who, in the course of his practice of optometry, ascertains that a person is blind,

shall report in writing to the Commissioner the name, age, and residence of such person and such additional information as the Council may, by regulation, require for incorporation in the register referred to in the first section. Such register and reports shall not be open to public inspection. The Commissioner may make available in the form of statistical abstracts or digests information contained in such register and reports if the identity of persons referred to in such register or reports is not disclosed in such abstracts or digests. (Aug. 3, 1968, Pub. L. 90-458, § 2, 82 Stat. 633.)

EFFECTIVE DATE

See note under section 6-1401.

§ 6-1403. Definitions.

For the purpose of this chapter—

(1) the term “blind person” means, and the term “blind” refers to, a person who (A) is totally blind, (B) has impaired vision of not more than 20/200 visual acuity in the better eye and for whom vision cannot be improved to better than 20/200, or (C) who has loss of vision due wholly or in part to impairment of field vision or to other factors which affect the usefulness of vision to a like degree,

(2) the term “Commissioner” means the Commissioner of the District of Columbia or his designated agent, and

(3) the term “Council” means the District of Columbia Council.

(Aug. 3, 1968, Pub. L. 90-458, § 3, 82 Stat. 633.)

EFFECTIVE DATE

See note under section 6-1401.

§ 6-1404. Liability of persons making reports.

Any person who in good faith makes a report pursuant to this chapter or pursuant to any regulation promulgated under the authority of this chapter, shall not, by reason thereof, be personally liable in damages. (Aug. 3, 1968, Pub. L. 90-458, § 4, 82 Stat. 633.)

EFFECTIVE DATE

See note under section 6-1401.

TITLE 7.—HIGHWAYS, STREETS, BRIDGES

Chap. Sec.
9. Rental and Utilization of Public Space..... 7-902

Chapter 1.—HIGHWAY PLANS

- Sec.
7-135. Federal-aid highway projects—Commissioner's authority to provide certain payments and services.
7-136. Authority to acquire and transfer to Secretary of the Interior real property in exchange for real property transferred to the District—Payments in lieu of transfer of property.

§ 7-101. Commissioners to have control of streets—Power to make regulations for repairs.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(150) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to making of regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

District officials may not disregard requirements of title 7

District of Columbia officials responsible for planning and construction of highway projects in the District had not been authorized by Congress by ratification by appropriation to disregard requirements of title 7 of the District of Columbia Code, relating to highways, streets and bridges, in the planning and construction of four links of proposed District of Columbia freeway system. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

Federal-Aid Highway acts have not given authority to District of Columbia officials responsible for planning and construction of highway projects in the District to proceed with planning and construction of four links of proposed District of Columbia freeway system without regard for title 7 of the District of Columbia relating to highways, streets and bridges. *Id.*

§ 7-102. Commissioners to have jurisdiction over public roads and bridges—Exceptions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-106. Commissioners may change names of streets when two streets have same name.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(151) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-107. Commissioners to name streets outside of city limits.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(152) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-108. Permanent highway plan—Preparation by Commissioners—Width of highways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(153) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the extent provided in par. 153, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Construction

Section 7-108 to 7-112, was intended to regulate wide Interstate Expressways. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

Construction with other laws

Federal-Aid Highway legislation is not inconsistent with District of Columbia Code sections limiting highway width to 160 feet, or with Code section directing the District government to assess land-owners abutting newly constructed highways for additional benefits. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125.)

Preparation, filing, and certification of plans

District of Columbia statutes requiring preparation by the commissioners of the district of a plan for permanent system of highways, that map depicting the system be filed and be certified to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. *D.C. Federation of Civic Associations, et al. v. T. F. Airis, et al.* (1967, 275 F. Supp. 533). But see contrary holding in 391 F. 2d 478.

Federal statute setting forth steps to be undertaken by states for the approval of highways to be constructed with federal aid are applicable to the District of Columbia. *Id.*

Suit to restrain expenditure of funds for highway projects

Civic associations did not have standing to sue District of Columbia officials to restrain expenditure of municipal funds for highway projects. *D.C. Federation of Civic Associations et al. v. T. F. Airis, et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

Property owners whose property may be condemned for proposed freeways had no valid claim to equitable relief to restrain expenditures of municipal funds for highway projects as they had an adequate remedy of law by contesting condemnation proceeding, if and when one was brought. *Id.*

Property owners who owned property the value of which might be reduced by proposed highway projects did not have any legal personal rights that were being adversely affected and such owners did not have standing to maintain suit against District of Columbia officials to restrain expenditure of municipal funds for proposed highway projects. *Id.*

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. *Id.*

Central committee of political party which was not incorporated was not an entity and had no capacity to sue or be sued and could not maintain action against District of Columbia officials to restrain expenditure of municipal funds for construction of proposed highway projects. *Id.*

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. *Id.*

If District of Columbia officials were not taking any step forbidden by law by the expenditure of funds for construction and planning of proposed highway projects, they were acting in accordance with law and taxpayers' suit to restrain expenditure of funds should be determined in favor of District of Columbia for the court has no authority to consider the merits of the projects as that is entirely and solely for consideration of legislative and executive branches of the government. *Id.*

§ 7-109. Permanent highway—Plans to be prepared in sections—Conformity to subdivisions—Plans to be submitted to National Capital Planning Commission—Recordation—Landowners to submit plat of proposed highways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS**Construction**

Sections 7-108 to 7-112 was intended to regulate wide Interstate Expressways. *D.C. Federation of Civic*

Associations, Inc., et al. v. T. F. Airis, Director etc. (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

Preparation, filing and certification of plans

District of Columbia statutes requiring preparation by the commissioners of the district of a plan for permanent system of highways, that map depicting the system be filed and be certified to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. *D.C. Federation of Civic Associations et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

Federal statute setting forth steps to be undertaken by states for the approval of highways to be constructed with federal aid are applicable to the District of Columbia. *Id.*

Suit to restrain expenditure of funds for highway projects

Civic associations did not have standing to sue District of Columbia officials to restrain expenditure of municipal funds for highway projects. *D.C. Federation of Civic Associations et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

Property owners whose property may be condemned for proposed freeways had no valid claim to equitable relief to restrain expenditures of municipal funds for highway projects as they had an adequate remedy of law by contesting condemnation proceeding, if and when one was brought. *Id.*

Property owners who owned property the value of which might be reduced by proposed highway projects did not have any legal personal rights that were being adversely affected and such owners did not have standing to maintain suit against District of Columbia official to restrain expenditure of municipal funds for proposed highway projects. *Id.*

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. *Id.*

Central committee of political party which was not incorporated was not an entity and had no capacity to sue or be sued and could not maintain action against District of Columbia officials to restrain expenditure of municipal funds for construction of proposed highway projects. *Id.*

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. *Id.*

If District of Columbia officials were not taking any step forbidden by law by the expenditure of funds for construction and planning of proposed highway projects, they were acting in accordance with law and taxpayers' suit to restrain expenditure of funds should be determined in favor of District of Columbia for the court has no authority to consider the merits of the projects as that is entirely and solely for consideration of legislative and executive branches of the government. *Id.*

§ 7-110. Adoption of subdivision by reference in will or deed.

NOTES TO DECISIONS**Construction**

Sections 7-108 to 7-112 were intended to regulate wide Interstate Expressways. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

§ 7-111. Entry upon property authorized for purposes of survey.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan.

For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Construction

Sections 7-108 to 7-112 were intended to regulate wide Interstate Expressways. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

§ 7-112. Commissioners authorized to name streets.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(154) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Construction

Sections 7-108 to 7-112 were intended to regulate wide Interstate Expressways. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

§ 7-113. Abandonment or readjustment of streets to provide ground for educational, religious, or similar institutions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(155) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to abandoning or readjusting streets or proposed streets, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-114. Use of property by owner until condemnation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-115. Public notice to owners of plan—Opportunity to be heard.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power invested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in appendix to title 1.

§ 7-116. Powers may be exercised through Beatty and Hawkins's addition to Georgetown.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(154 and 156) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-117. Acceptance of dedicated streets—Building restrictions—Right-of-way for sewers and water-mains.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(157) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-907, 7-924.

§ 7-119. Resubdivision of property affected by highway plan pending condemnation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-122. New highway plans authorized.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(158) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to determine the extent to which new highway plans may be out of conformity with the street plan, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Preparation, filing and certification of plans

District of Columbia statutes requiring preparation by the commissioners of the district of a plan for permanent system of highways, that map depicting the system be filed and be certified to the National Capital Planning Commission for recommendations are applicable to local highway improvements but do not apply to highway improvements constructed with federal aid. *D.C. Federation of Civic Associations et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

Federal statute setting forth steps to be undertaken by states for the approval of highways to be constructed with federal aid are applicable to the District of Columbia. *Id.*

Suit to restrain expenditure of funds for highway projects

Civic associations did not have standing to sue District of Columbia officials to restrain expenditure of municipal funds for highway projects. *D. C. Federation of Civic Associations et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

Property owners whose property may be condemned for proposed freeways had no valid claim to equitable relief to restrain expenditures of municipal funds for highway projects as they had an adequate remedy of law by contesting condemnation proceeding, if and when one was brought. *Id.*

Property owners who owned property the value of which might be reduced by proposed highway projects did not have any legal personal rights that were being adversely affected and such owners did not have standing to maintain suit against District of Columbia official to restrain expenditure of municipal funds for proposed highway projects. *Id.*

Users of public parks within sites of proposed highway projects who contended that their rights to use the parks would be interfered with by construction had no rights separate and apart from those of the rest of the public and park users had no standing to sue to restrain District of Columbia officials from expending municipal funds for proposed highway project. *Id.*

Central committee of political party which was not incorporated was not an entity and had no capacity to sue or be sued and could not maintain action against District of Columbia officials to restrain expenditure of municipal funds for construction of proposed highway projects. *Id.*

Taxpayers of District of Columbia had standing to maintain suit against District of Columbia officials, but not federal officials, to restrain expenditure of funds for proposed highway projects to be constructed with municipal and federal funds. *Id.*

If District of Columbia officials were not taking any step forbidden by law by the expenditure of funds for construction and planning of proposed highway projects, they were acting in accordance with law and taxpayers' suit to restrain expenditure of funds should be determined in favor of District of Columbia for the court has no authority to consider the merits of the projects as that is entirely and solely for consideration of legislative and executive branches of the government. *Id.*

§ 7-123. Commissioners of the District of Columbia to close certain streets, roads, or highways in the District of Columbia rendered useless or unnecessary by the highway plan—Consent of owners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-124. Plat to be filed—Assessment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-125. Subdivision to conform to plan of Washington—Approval of Commission.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-126. District of Columbia authorized to use certain land owned by United States for street purposes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-127. Relocation of Michigan Avenue—Relocation authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-128. Use of part of Soldiers' Home.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-129. Portion of Michigan Avenue abandoned.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-130. Surveyor to prepare plats showing relocation of Michigan Avenue—Recordation of plats to transfer title.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-131. Right-of-way to Washington Railway and Electric Company.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-133. Loans for the District of Columbia highway construction program—Availability—Repayment—Interest—Budget estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-134. Use of land in squares 354 and 355 for Southwest Freeway and for redevelopment of Southwest area of District.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-135. Federal-aid highway projects—Commissioner's authority to provide certain payments and services.

For the purpose of enabling the District of Columbia to have its Federal-aid highway projects approved under section 106 or 117 of title 23, United States Code, the Commissioner of the District of Columbia may, in connection with the acquisition of real property in the District of Columbia for any Federal-aid highway project, provide the payments and services described in sections 505, 506, 507, and 508 of title 23, United States Code. (Aug. 23, 1968, Pub. L. 90-495, § 23(d), 82 Stat. 827.)

CODIFICATION

The text of the above section is taken from section 23(d) of the "Federal-Aid Highway Act of 1968," Pub. L. 90-495. For classification of this act, see tables in U.S. Code.

EFFECTIVE DATE

Section 37, of act Aug. 23, 1968, Pub. L. 90-495, provided: "This Act [The Federal-Aid Highway Act of 1968, section 23(a) (b) (c) of which is set out as a note to this section; and subsection (d) is classified to this section and (e) (f) thereof is classified as sec. 7-136] and the amendments made by this Act shall take effect on the date of its enactment [Aug. 23, 1968], except that until July 1, 1970, sections 502, 505, 506, 507, and 508 of title 23, United States Code, as added by this Act, shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. After July 1, 1970, such sec-

tions shall be completely applicable to all States. Section 133 of title 23, United States Code, shall not apply to any State if sections 502, 505, 506, 507, and 508 of title 23, United States Code, are applicable in that State, and effective July 1, 1970, such section 133 is repealed."

CONSTRUCTION OF CERTAIN PROJECTS

Section 23(a) (b) (c) of the act of Aug. 23, 1968, Pub. L. 90-495, being a part of the "Federal-Aid Highway Act of 1968" provided:

"(a) Notwithstanding any other provision of law, or any court decision or administrative action to the contrary, the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, construct all routes on the Interstate System within the District of Columbia as set forth in the document entitled '1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia' submitted to Congress by the Secretary of Transportation with, and as a part of, 'The 1968 Interstate System Cost Estimate' printed as House Document Numbered 199, Ninetieth Congress. Such construction shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

"(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge, I-266 (Section B1 to B2).

"(2) Potomac River Freeway, I-266 (Section B2 to B4).

"(3) Center Leg of the Inner Loop, I-95 (Section A6 to C4), terminating at New York Avenue.

"(4) East Leg of the Inner Loop, I-295 (Section C1 to C4), terminating at Bladensburg Road.

"(c) The government of the District of Columbia and the Secretary of Transportation shall study those projects on the Interstate System set forth in 'The 1968 Interstate System Cost Estimate', House Document Numbered 199, Ninetieth Congress, within the District of Columbia which are not specified in subsection (b) and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section."

CROSS REFERENCES

Federal Highway Relocation Assistance, see chapter 5, title 23, U.S. Code.

§ 7-136. Authority to acquire and transfer to Secretary of the Interior real property in exchange for real property transferred to the District—Payments in lieu of transfer of property.

The Commissioner of the District of Columbia is authorized to acquire by purchase, donation, condemnation or otherwise, real property for transfer to the Secretary of the Interior in exchange or as replacement for park, parkway, and playground lands transferred to the District of Columbia for a public purpose pursuant to section 8-115 and the Commissioner is further authorized to transfer to the United States title to property so acquired.

Payments are authorized to be made by the Commissioner, and received by the Secretary of the Interior, in lieu of property transferred pursuant to the first paragraph of this section. The amount of such payment shall represent the cost to the Secretary of the Interior of acquiring real property suitable for replacement of the property so transferred as agreed upon between the Commissioner and the

head of said agency and shall be available for the acquiring of the replacement property. (Aug. 23, 1968, Pub. L. 90-495, § 23(e) (f), 82 Stat. 828.)

CODIFICATION

The text of the above section is taken from section 23 (e) and (f) of the "Federal-Aid Highway Act of 1968," Pub. L. 90-495. For classification of this act, see tables in U.S. Code.

EFFECTIVE DATE

See note to section 7-135.

CROSS REFERENCE

Federal Highway Relocation Assistance, see chapter 5, title 23, U.S. Code.

Chapter 2.—LAND FOR STREETS

§ 7-201. Commissioners may open, extend, or widen streets, avenues, roads, or highways according to permanent system of highways—Damages and costs assessed as benefits—Damages and costs paid from revenues of District—Repaid from assessments.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(159) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Construction with other laws

Federal-Aid Highway legislation is not inconsistent with District of Columbia Code sections limiting highway width to 160 feet, or with Code section directing the District government to assess land-owners abutting newly constructed highways for additional benefits. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

District officials may not disregard requirements of title 7

District of Columbia officials responsible for planning and construction of highway projects in the District had not been authorized by Congress by ratification by appropriation to disregard requirements of Title 7 of the District of Columbia Code, relating to highways, streets and bridges, in the planning and construction of four links of proposed District of Columbia freeway system. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis, Director etc.* (1968, 391 F. 2d 478, 129 U.S. App. D.C. 125).

Federal-Aid Highway acts have not given authority to District of Columbia officials responsible for planning and construction of highway projects in the District to proceed with planning and construction of four links of proposed District of Columbia freeway system without regard for title 7 of the District of Columbia Code relating to highways, streets and bridges. *Id.*

§ 7-202. Condemnation of land for streets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§§ 7-203 to 7-209.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 16-1336.

§ 7-210. Confirmation of verdict—Payment of award.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-211. Assessments made liens—How paid—Set-off of damages and benefits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-212. Power to amend proceedings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-213a. Repealed. Mar. 27, 1968, Pub. L. 90-274, § 103 (a), 82 Stat. 62.

Section, act July 30, 1951, 65 Stat. 126, ch. 248 § 2, dealt with fees of jurors in eminent domain cases instituted by or behalf of the District of Columbia.

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§§ 7-214, 7-215.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 16-1336.

§ 7-216. Condemnation for streets through unsubdivided part of plot.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-219. If damages and costs exceed benefits, Commissioners may dismiss cause.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-221. Benefits assessed against land no part of which was taken—Notice of assessment, how given.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—ALLEYS AND MINOR STREETS

§ 7-301. Alleys and minor streets opened, extended, widened, or straightened by Commissioners—Conditions—Petition of landowners—Minor street defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-302. Useless alleys—Sale of original alleys—Reversion of title to owner.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(160) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to closing alleys or parts of alleys, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-303. Alleys may be closed on dedication of new ones—Application of property owners—Future ownership of closed alleys—Plats recorded.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(161) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the closing of alleys and accepting the dedication of alleys, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the

District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

NOTES TO DECISIONS

District's discretion

District of Columbia Code provision for closing of alleys on dedication of new ones gives District discretionary authority when application is made. *District of Columbia v. All of lot 7, In Reservation II etc.* (1968, 284 F. Supp. 692.)

District of Columbia Code provision for closing of alleys on dedication of new ones does not contemplate total extinction of alleys to be replaced, in effect, by parcel of open land. *Id.*

Evidence

Defendants in proceeding by District of Columbia to condemn land were not entitled to introduce evidence of increased value of land should alleys be closed in return for dedication of portion of land, where there was no reasonable possibility that District would exercise its discretion to close alleys. *District of Columbia v. All of lot 7, In Reservation II etc.* (1968, 284 F. Supp. 692.)

§ 7-304. Closing narrow alleys—Application of property owners—Disposal of land.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(162) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-305. Alleys closed for single improvement on two-thirds of square.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(163) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

NOTES TO DECISIONS

Evidence of other settlements

Although condemnor cannot introduce evidence of purchases it has made in settlement of other condemnation suits, condemnee may do so in this particular case. *D. S. Nash et ano. v. D.C. Redevelopment Land Agency* (1967, 395 F. 2d 571, 129 U.S. App. D.C. 348).

In proceeding relating to condemnation of parking lot, trial court properly admitted evidence of condemnation settlement relating to neighboring junk yard, notwithstanding fact that agreement between condemnor and junk yard owner had not yet finally been accepted by Justice Department, in view of fact that, in normal course of events, recommendations of condemnor's counsel would be accepted. *Id.*

§ 7-306. Changing of alleyways—Petition of property owners—New dedication—Plat—Future ownership.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(164) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to orders declaring existing alleyways closed and opening new substitute alleyways, to the District of

Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-307. Copy of order and plat recorded—Ownership of closed alley.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-308. Obliterating subdivisions and alleys—Filing copy of order.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(165) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to orders canceling existing subdivisions of any square and obliterating alleys therein, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-309. Closing alleys—Authorized upon acquisition of abutting property by District of Columbia—Property owner's right of access preserved.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(166) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-310. Land owned by District may be set aside for alley purposes.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(167) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-311. Public notice—Hearings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-312. Maps—Preparation—Recordation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-313. Condemnation to open, widen, or straighten alleys or minor streets—Plats.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§§ 7-314 to 7-316.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 16-1336.

§ 7-317. Objections to verdict—When filed—Vacation or modification by court—New jury—Costs.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§ 7-318. Benefits assessed must equal damages and costs.

Said jury shall assess as benefits accruing by reason of said opening, extension, widening, or straightening an amount equal to the amount of damages as ascertained by them as hereinbefore provided, including five dollars per day for the marshal, and all other expenses of such proceedings. (Mar. 3, 1901, ch. 854, § 1608j, as added Feb. 23, 1905, 33 Stat. 736, ch. 734; Mar. 27, 1968, Pub. L. 90-274, § 103(c), 82 Stat. 63.)

AMENDMENT

1968—Section 103(c), act Mar. 27, 1968, Pub. L. 90-274, amended section by striking out, "and five dollars per day for each juror for the services of each when actually employed".

EFFECTIVE DATE OF AMENDMENT AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: "That this Act [Amending chapter 121 of title 28, U.S. Code and certain other sections of title 28, U.S.

Code; Repealing sections 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) and 11-2307 to 11-2312 inclusive, and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the 'Jury Selection and Service Act of 1968' ''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1336.

§§ 7-320 to 7-323.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 16-1336.

§ 7-324. Benefit assessments from condemnation for alleys or minor streets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

§ 7-325. Proceeds of sale of lands paid into Treasury.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

§ 7-326. Plats to be made by surveyor—Costs.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

§ 7-327. Correcting defects in certain prior proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-330. Surplus from sale of land in which United States is interested to be paid into Treasury.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-331. Costs paid from alley appropriations when proceedings fail.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-333. Commissioners to employ assistant corporation counsel for condemnation proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 4.—CLOSING STREETS, ALLEYS, OR HIGHWAYS

§ 7-401. Street Readjustment—Closing of unnecessary public ways authorized—Disposition of property—Reference to Planning Commission.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(168) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the closing of streets, highways, roads, alleys or any part of any thereof, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Evidence of other settlements

Although condemnor cannot introduce evidence of purchases it has made in settlement of other condemnation suits, condemnee may do so in this particular case. *D. S. Nash et ano. v. D.C. Redevelopment Land Agency* (1967, 395 F. 2d 571, 129 U.S. App. D.C. 348).

In proceeding relating to condemnation of parking lot, trial court properly admitted evidence of condemnation settlement relating to neighboring junk yard, notwithstanding fact that agreement between condemnor and junk yard owner had not yet finally been accepted by Justice Department, in view of fact that, in normal course of events, recommendations of condemnor's counsel would be accepted. *Id.*

§ 7-404. Order for closing public ways—Notice—Effective if no objection within 30 days—Recordation of plats.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-405. Objections to closing public ways—Proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-407. Abandonment of proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-408. Petition by property owners for closing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—BRIDGES, VIADUCTS, AND SUBWAYS

§ 7-501. Control of bridges vested in Commissioners of the District of Columbia—Except Aqueduct Bridge.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(169) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-502. Construction and repair of bridges over railway and canal rights-of-way—Collection of cost.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-507. Highway Bridge—Maintenance cost—Street railways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-511. Francis Scott Key Bridge—Railways—Approval by Secretary of the Army.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-514. Benning Bridge—Cost—Railways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-520. Michigan Avenue Viaduct—Construction authorized—Cost.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-523. Subway under Baltimore and Ohio tracks in vicinity of Chestnut Street, Fern Place, and Piney Branch Road, extended—Cost.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-524. Calvert Street Bridge—Street railways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-526. Washington Channel bridge and facilities—Construction, maintenance, etc.—Acquisition of land—Cooperation with agencies—Leases—Advisory Committee—Appropriations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 6.—REPAIR AND CONSTRUCTION

§ 7-601. Repairs to streets, avenues, alleys, or sewers—Public notice—Lowest responsible bidder to be accepted—Rejection of bids—Subdivision of contracts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-602. Contracts—Unanimous consent of Commissioners required—Contracts to be copied into book.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-603. Pavement to be of best known materials—Bond of contractors—Liability for repairs.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-604. Payments—Railway companies to pay portion of cost—Penalty for refusal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-604a. Removal of street railway tracks—Provision for paving.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(170) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-605. Water and gas mains, service pipes, and sewer connections to be laid before permanent improvements are made.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-607. Commissioners to submit schedules of streets to be improved in order of importance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-608. Improvement and repair of alleys and sidewalks, and construction of sewers and sidewalks under permit system—Hearing—Notice—Cost—Assessment, collection, liability for sale, deposit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-610. Service connections for water and sewer when street is about to be paved—Cost—Assessment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-612. Assessments for costs of paving streets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-613. Width of pavement of streets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-615. Cutting trenches in highways—Reservation or public space without permit prohibited—Inapplicable to public buildings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-618. Use of portable asphalt plant.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-620. Limitation on contracts of District Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 7-622 to 7-629.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1102.

§ 7-630. Collection of assessments—Interest—Advertising of intention to improve and hearing not required.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1102.

§ 7-631. Protest of aggrieved property owner—Adjustment of assessment by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1102.

§ 7-632. Cancellation of prior assessments directed—Reassessment—Refund.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1102.

§§ 7-633, 7-634.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1102.

Chapter 7.—STREET LIGHTING

§ 7-701. Street lighting—Rates for street lighting—Cost and maintenance of lighting facilities—Powers of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-703. Deductions for failure to provide required illumination—Testing facilities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-704. Contracts for gas and electric lighting not required.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-705. Penalty for failure to furnish, erect, maintain, move, or discontinue street lamps.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-706. Extension of gas-mains for maintenance of street lamps—Cost.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(171) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-707. Regulating hours of lighting of street lamps.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-708. Washington Terminal Company to pay for certain street lighting.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-709. Railroads to pay for certain street lighting.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 8.—REMOVAL OF SNOW AND ICE

§ 7-802. Removal by Commissioners from walks adjacent to public buildings—Making safe with sand or ashes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-805. Removal by Commissioners upon default by owner or occupant—Expense.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 9.—RENTAL AND UTILIZATION OF PUBLIC SPACE

SUBCHAPTER I.—RENTAL OF PUBLIC SPACE

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- 7-901. Repealed.
- 7-902. Definitions.
- 7-903. Assessment and collection of rent from the United States, District of Columbia or foreign governments, not authorized.
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SUBCHAPTER I.—RENTAL OF PUBLIC SPACE

TITLE I.—SHORT TITLE, STATEMENT OF FINDINGS, AND POLICY DEFINITIONS

§ 7-901. Repealed. Oct. 17, 1968, Pub. L. 90-596, § 301, title III, 82 Stat. 1158.

Section, act Sept. 1, 1916, 39 Stat. 716, ch. 433, § 7, as amended May 18, 1954, 68 Stat. 110, ch. 218, § 501, authorized the Commissioners to assess and collect rents from users of space occupied under the sidewalks and streets. Subject matter is now covered by Pub. L. 90-596, set out in this subchapter. Section 301, the repealing section also provided that all permits issued under the authority of this section "are revoked" as of the effective date of this title. [Title III] See sec. 7-925.

EFFECTIVE DATE

See section 7-925.

§ 7-902. Definitions.

As used in this subchapter, unless the context requires otherwise—

"Commissioner" means the Commissioner of the District or his designated agent.

"District" means the District of Columbia.

"Owner" means (1) any person, or any one of a number of persons, in whom is vested all or any part of the beneficial ownership, dominion, or title of property; (2) the committee, conservator, or legal guardian of an owner who is non compos mentis, a minor child, or otherwise under a disability; or (3) a trustee elected or appointed, or required by law, to execute a trust, other than a trustee under a deed of trust to secure the repayment of a loan.

"Parking" means that area of public space which lies between the property line and the edge of the actual or planned sidewalk which is nearer to such property line, as such property line and sidewalk are shown on the records of the District.

"Property line" means the line of demarcation between privately owned property fronting or abutting a street and the publicly owned property in the line of such street.

"Public space" means all the publicly owned property between the property lines on a street, as such property lines are shown on the records of the District, and includes any roadway, tree space, sidewalk, or parking between such property lines.

"Street" means a public highway as shown on the records of the District, whether designated as a street, alley, avenue, freeway, road, drive, lane, place, boulevard, parkway, circle, or by some other term.

"Vault" means a structure or an enclosure of space beneath the surface of the public space, including but not limited to tanks for petroleum products, except that the term "vault" shall not include public utility structures, pipelines, or tunnels constructed under the authority of subsection (d) of section 1-244, or structures or facilities of the United States or the District of Columbia, or of any governmental entity or foreign government, or any structure or facility included in any lease agreement entered into by the Commissioner. If such structure or enclosure of space be divided approximately horizontally into two or more levels, the term "vault" as used in this subchapter shall be considered as applying to one such level only, and each such level shall be con-

sidered a separate vault within the meaning of this subchapter. (Oct. 17, 1968, Pub. L. 90-596, § 103, title I, 82 Stat. 1156.)

CONGRESSIONAL FINDINGS

Section 102, act Oct. 17, 1968, Pub. L. 90-596, provided: "The Congress finds that there is demand in the District for the use of public space for private gain by the owners of property abutting such space, or by the operators of businesses on such property. The Congress further finds that much of the use that is presently being made of such space by such owners or operators, and much of the use that is proposed to be made thereof, would not be in derogation of the rights of the general public to use such space if a determination be made by the Commissioner that some or all of such space is not required for the use of the general public and may be made available for use, for business purposes, by or with the consent of the owners of the private property abutting such public space, subject to the payment of adequate compensation for the use of such public space, and subject to the discontinuance of such use to the extent that the Commissioner may later determine such space to be required for the use of the general public, including use by a public utility company. The Congress therefore declares that public space in the District which the Commissioner finds is not required for the use of the general public may be made available by him, for use, for business purposes, by or with the consent of the owners of private property abutting such space, upon payment to the District of compensation for the use of such space, and on the condition that such use will be discontinued in whole or in part whenever the Commissioner determines that all or part of the public space is required for the use of the general public."

SHORT TITLE

Section 101, act Oct. 17, 1968, Pub. L. 90-596, provided: "This Act (This subchapter and the repeal of section 7-901) may be cited as the 'District of Columbia Public Space Rental Act.' "

EFFECTIVE DATE

See section 7-925.

§ 7-903. Assessment and collection of rent from the United States, District of Columbia or foreign governments, not authorized.

Nothing contained in this subchapter shall be construed as requiring the Commissioner to assess and collect rent from the Government of the United States, the government of the District of Columbia, or any foreign government, for the use, in accordance with the provisions of titles II and III, of public space abutting property owned by any such government or governmental entity, nor shall any such government or governmental entity be subject to the payment of any rent required by this subchapter. (Oct. 17, 1968, Pub. L. 90-596, § 104, title I, 82 Stat. 1157.)

EFFECTIVE DATE

See section 7-925.

§ 7-904. Minor uses of public space without rental payments, authorized.

Notwithstanding any other provisions of this subchapter, the Commissioner is authorized, in his judgment and pursuant to regulations adopted and promulgated by the District of Columbia Council, to permit the occupancy of public space for minor uses without requiring rental payments when the fixing and collection of rental charges would not be feasible. (Oct. 17, 1968, Pub. L. 90-596, § 105, title I, 82 Stat. 1157.)

EFFECTIVE DATE

See, section 7-925.

TITLE II.—RENTAL OF PUBLIC SPACE ON OR ABOVE THE SURFACE

§ 7-905. Regulations by District Council for rental of public space—Conditions—Provisions to be included in regulations.

The District of Columbia Council is authorized to provide by regulation for the rental of portions of public space on or above the surface of the pavement or the ground, as the case may be, and not actually required for the use of the general public, for such period of time as the said space may not be so required or for any lesser period: *Provided*, That nothing herein contained shall be construed as requiring the Council to require the payment of rent as a condition to the use of public space (1) in accordance with the provisions of regulations promulgated under the authority of the first paragraph of section 5-204; (2) by a public utility company for the installation and maintenance of any of its equipment or facilities, under permit issued by the District; or (3) for the sale of newspapers of general circulation: *Provided further*, That the proposed rental of public space within the area of the District of Columbia subject to the provisions of sections 5-410 and 5-411, shall be submitted to the Commission of Fine Arts in accordance with the provisions of sections 5-410 and 5-411. The regulations adopted by the District of Columbia Council shall provide that public space rented under the authority of this title shall be rented only to the owner of property fronting and abutting such public space; that any person using such space shall not acquire any right, title, or interest therein; that both the United States and the District of Columbia, and the officers and employees of each of them, shall be held harmless for any loss or damage arising out of the use of such space, or the discontinuance of any such use; that the Commissioner may require such space to be vacated upon demand by him and its use discontinued, with or without notice, and with no recourse against either the United States or the District for any loss or damage occasioned by any such requirement; and that if any such use be not discontinued by the time specified by the Commissioner, the said Commissioner may remove from such space any property left thereon or therein by any person using such space under the authority of this title, at the risk and expense of the owner of the real property abutting such space. (Oct. 17, 1968, Pub. L. 90-596, § 201, title II, 82 Stat. 1157.)

EFFECTIVE DATE

See, section 7-925.

§ 7-906. Regulations to prescribe rental to be paid—Minimum rental to be paid under this title—Refunds.

The District of Columbia Council shall by regulation provide for the payment of rent for the use of public space as authorized by this title. The annual rent for such space shall be a fair and equitable amount fixed by the Council from time to time in accordance with regulations adopted by it, generally establishing categories of use and providing that the rent for each category of use shall bear a reasonable relationship to the assessed value of the privately owned land abutting such space, depending on the

nature of the category of use and the extent to which the public space may be utilized for such purpose, but in no event shall the annual rent for the public space so utilized be at a rate of less than 4 per centum per annum of the current assessed value of an equivalent area of the privately owned space immediately abutting the public space so utilized. Such rent shall be payable in advance for such periods as may be fixed by the Council. In the event the Commissioner requires any person using public space under the authority of this title to vacate all or part of any space for which rent has been paid, the Commissioner is authorized to refund so much of such prepaid rent as may be represented by the amount of space so vacated and by the length of time remaining in the period for which rent was paid. (Oct. 17, 1968, Pub. L. 90-596, § 202, title II, 82 Stat. 1158).

EFFECTIVE DATE

See, section 7-925.

§ 7-907. Use of property subject to the requirements of section 7-117.

The Commissioner is authorized, with respect to property subject to the requirements of section 7-117, to allow the same use to be made of such property as, under the authority of this title, he allows to be made of the public space abutting such property. Any such use of such property shall be subject to the same conditions as are applicable to the use of the abutting public space, with the exception of the payment of rent. (Oct. 17, 1968, Pub. L. 90-596, § 203, title II, 82 Stat. 1158.)

EFFECTIVE DATE

See, section 7-925.

TITLE III.—RENTAL OF SUBSURFACE PUBLIC SPACE

§ 7-908. Permits for use or construction of vaults—Agreement required of owner—Contents of agreement—Recordation of a copy of agreement in office of Recorder of Deeds.

The Commissioner is authorized to issue a permit for the use of a vault constructed prior to the effective date of this subchapter, or for the construction of a vault after such effective date, only to the owner of the real property abutting the public space in which such vault is or will be located. The issuance of each such permit shall be conditioned on the prior execution by such owner of an agreement acknowledging, for himself, his heirs and assigns, (1) that no right, title, or interest of the public is thereby acquired, waived, or abridged; (2) that the Commissioner may inspect such vault during regular business hours; (3) that the Commissioner may introduce or authorize the introduction into or through such vault with, right of entry for inspection, maintenance, and repair, of any water pipe, gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction, which the Commissioner deems necessary in the public interest to place in or through such vault; (4) that such vault will be changed by the owner, or by the District at the expense of such owner, to conform with any change made in the street, roadway, or sidewalk width or grade; and (5) that rental for such vault will be paid to the District as required by this sub-

chapter. A copy of such agreement shall be recorded in the office of the Recorder of Deeds by and at the expense of such owner. (Oct. 17, 1968, Pub. L. 90-596, § 302, title III, 82 Stat. 1158.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-909. Commissioner to assess and collect rents for use of vaults.

The Commissioner is authorized and directed to assess and collect rent from the owners of abutting property for any vault located in the public space abutting such property, unless such vault shall have been removed, filled, sealed, or otherwise rendered unusable in a manner satisfactory to the Commissioner. (Oct. 17, 1968, Pub. L. 90-596; § 303, title III, 82 Stat. 1159.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-910. Owners of property in which vaults are located to pay rents as fixed by District Council—Minimum rent—Waiver of rent under certain conditions.

Each owner of property abutting public space in which a vault is located shall pay an annual rent fixed from time to time by the District of Columbia Council for such vault, but such annual rent shall not be less than \$10, and such rent shall be subject to collection from said owner in the manner prescribed by this title, regardless of whether any use is made of such vault, and regardless of the extent of any use: *Provided*, That no rent for any rental year for a vault shall be charged to the owner of abutting property if said owner, prior to July 1 of such year, has notified the Commissioner in writing that he has abandoned such vault and has performed such work as may be required by the District in connection with the sealing off or filling of such vault, or both. (Oct. 17, 1968, Pub. L. 90-596, § 304, title III, 82 Stat. 1159.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-911. Same; Annual payment of rent—Rental year—Interest charges for non-payment—Refunds—Deduction of expenses.

(a) The owner of property abutting public space in which any vault is located, as such owner may be recorded in the real estate assessment records of the District, shall pay the rent established in accordance with this title for such vault. Such rent shall be payable annually for the year commencing July 1 and ending the following June 30, and shall be payable in full prior to the beginning of such year. In the case of vaults constructed between July 1 and January 1 of any year, one-half of the annual rent for any such vault, shall be payable in full prior to the first of January immediately following the completion of such vault. In the case of vaults constructed between January 1 and July 1 of the succeeding year, no rent shall be charged for any vault completed within such period, but the owner of the property abutting the public space in which such vault is located shall, prior to the first of July immediately following the completion of any such vault, pay in full the annual rent for such vault, for the rental year commencing on such July 1. Interest at

the rate of 1 per centum for each month or part thereof shall be charged in every case in which rent is not paid on or before the date on which any payment required by this section shall become due.

(b) In the event the Commissioner requires or allows any person using subsurface public space under the authority of this title to vacate, voluntarily or involuntarily, all or part of any space for which rent has been paid, the Commissioner is authorized to refund so much of such prepaid rent as may be represented by the amount of space so vacated and by the length of time remaining in the period for which rent was paid: *Provided*, That the Commissioner may deduct from such prepayment any amount due the District in compensation for expenses to the District in connection with the use or abandonment of said space. (Oct. 17, 1968, Pub. L. 90-596, § 305, title III, 82 Stat. 1159.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-912. Commissioner authorized to order removal from vault under certain conditions—Failure to comply with order, a violation of this subchapter—Application to Court of General Sessions for authority to enter upon property of owner—Liability of District and employees for damages—Service of process on owner.

(a) Whenever the Commissioner determines that any vault is unsafe or is not in use, or the space occupied by such vault is required for street improvements, or the construction or extension of sewers, water mains, other public works, or public utility facilities, the Commissioner is authorized to serve upon the owner of property abutting public space occupied by such vault an order requiring such owner to remove in whole or in part, reconstruct, repair, or close such vault by filling, sealing, or otherwise rendering unusable in a manner satisfactory to the Commissioner. The failure or refusal of any such owner to comply with such order of the Commissioner within the time specified in such order shall constitute a violation of this subchapter.

(b) In the event that any owner of property abutting an unused or unsafe vault fails to remove in whole or in part, reconstruct, repair, or close the same by filling, sealing, or otherwise rendering unusable in a manner satisfactory to the Commissioner within the time specified by him, the Commissioner is authorized to apply to the District of Columbia Court of General Sessions for, and the said court is hereby authorized to issue, an order empowering the Commissioner to enter upon the property of such owner for the purpose of performing such work as may be necessary in connection with the removal, reconstruction, repair, or closure of such vault, and the District and its officers and employees shall not be liable for any damage to real or personal property which may result from the performance of any such work, other than such damage as may be caused by the gross negligence of the District or of any of its officers or employees. Process in connection with the application for such order shall be served on the owner in accordance with the rules of said court relating to the service of process in civil actions. In the event such owner is not to be found in the District after reasonable search and an affidavit to this effect

is made on behalf of the District, such process may be served by publications for one day each week for three consecutive weeks in a newspaper of general circulation in the District, and, if service of process is by publication, a copy of such process and publication shall be sent to such owner by certified mail at his last known address as recorded in the real estate assessment records of the District. (Oct. 17, 1968, Pub. L. 90-596, § 306, title III, 82 Stat. 1160.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-913. Same; Notice to owner when vaults are dangerous—Commissioner's authority to make vaults safe and secure—District's expenses to be charged against private property of owner.

Notwithstanding the provisions of the preceding section, whenever the Commissioner finds that any vault or vault opening in such condition as to be imminently dangerous to persons or property, he shall immediately notify the owner, agent, or other person in charge of the private property abutting the public space in which such vault or vault opening is located, to cause such vault or vault opening to be made safe and secure. The person or persons so notified shall be allowed until 12 o'clock noon of the day following the service of such notice in which to commence making such vault or vault opening safe and secure: *Provided*, That in a case where the public safety requires immediate action the Commissioner may enter upon the private property abutting the public space in which such vault or vault opening is located, with such workmen and assistants as may be necessary, and cause such vault or vault opening to be made safe and secure. In any case in which the Commissioner performs any work under the authority of this section, the cost to the District of performing such work shall be charged against the private property abutting the public space in which such vault or vault opening is located, and shall be collected in the manner provided by section 7-914. (Oct. 17, 1968, Pub. L. 90-596, § 307, title III, 82 Stat. 1160.)

EFFECTIVE DATE

See sections 7-917 and 7-925.

§ 7-914. Authority to secure the payment of rents, interest and other charges—Delinquent charges to be levied as a tax—Payment of tax—Tax sale for delinquent taxes.

(a) The Commissioner shall take such action as he in his discretion considers necessary or desirable to secure the payment to the District of rents due and payable on vaults; interest on late rental payments; the cost of any advertising required by this title; the cost to the District of sealing off, removing in whole or in part, filling, reconstructing, repairing, or closing a vault or vault opening, or performing any other service in connection therewith; and interest at the rate of 1 per centum per month or part thereof in every case in which payment to the District for the cost of performing work authorized by this title is not made within thirty days after a bill for such cost shall have been rendered.

(b) Charges authorized to be made by this title and not paid within ninety days after the close of the fiscal year in which such charges accrue shall be

levied by the Commissioner as a tax against the property abutting the public space in which a vault is located, such tax to be collected as provided in this section. Such tax shall include, without limitation, rents due and payable on vaults, interest on late rental payments, costs for sealing off, removing in whole or in part, filling, repairing, reconstructing, or closing a vault or vault opening, interest on late payments of such costs, and any advertising required by this title. The tax authorized to be levied and collected under this section may be paid without interest within sixty days from the date such tax was levied. Interest of one-half of 1 per centum for each month or part thereof shall be charged on all unpaid amounts from the expiration of sixty days from the date such tax was levied. Any such tax may be paid in three equal installments with interest thereon. If any such tax or part thereof shall remain unpaid after the expiration of two years from the date such tax was levied, the property against which said tax was levied may be sold for such tax or unpaid portion thereof with interest and penalties thereon at the next ensuing annual tax sale in the same manner and under the same conditions as property sold for delinquent general real estate taxes, if said tax with interest and penalties thereon shall not have been paid in full prior to said sale. (Oct. 17, 1968, Pub. L. 90-596, § 308, title III, 82 Stat. 1160.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-913 and 7-915.

§ 7-915. Vaults to be made available for utility construction or installation—Applicants to grant District certain rights—Court of General Sessions authorized to permit Commissioner to enter upon premises—Damages—Service of process—Costs and expenses.

(a) The Commissioner is authorized to require that the use of a vault occupied or used under the authority of this subchapter shall be subject to the condition that the District shall have the right at any time to install or construct under, over, or through said vault any water pipe, gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction that the Commissioner may consider it necessary in the public interest to place in the space occupied by such vault, without compensation to the owner of the private property abutting the space in which such vault is located or to the person occupying or using such vault. Each person using or occupying a vault, upon notice from the Commissioner that a water pipe, gas pipe, sewer, conduit, other pipe, or other public or public utility underground construction is to be introduced in the space occupied by such vault, shall commence to move, and forthwith remove, if necessary, any boiler, pipe, wall, beam, machinery, or construction in or pertaining to said vault, or any fixture or other thing therein, without cost to the District, so as to leave a space clear and sufficient in the judgment of the Commissioner for the introduction and maintenance of any such underground construction or installation. The Commissioner is further authorized to require each applicant for a permit to

construct a vault in public space, as a condition precedent to the issuance of the permit, to agree for himself and his heirs and assigns that the Commissioner shall have the right to enter upon the premises at any time for the inspection and proper maintenance or repair of any public underground construction or installation in such vault, and that in case there is any change in the street, roadway, or sidewalk above such vault, the vault shall be subject to a corresponding change, as directed by the Commissioner, without expense to the District of Columbia.

(b) In the event a person occupying or using a vault under the authority of this subchapter shall fail or refuse to perform or to permit the performance of any work required by the Commissioner under the authority of subsection (a), the Commissioner is authorized to apply to the District of Columbia Court of General Sessions for, and said court is hereby authorized to issue, an order empowering the Commissioner to enter upon the private property abutting the public space in which such vault is located for the purpose of performing such work as may be necessary in connection with the construction or installation in such public space of any water pipe, gas pipe, sewer, conduit, other pipe, or other underground construction or installation that the Commissioner may consider it necessary or desirable to place in such space, and the District and its officers and employees shall not be liable for any damage to real or personal property which may result from the performance of any such work, other than such damage as may be caused by the gross negligence of the District or of any of its officers or employees. Process in connection with the application for such order shall be served on the owner in accordance with the rules of said court relating to the service of process in civil actions. In the event such owner is not to be found in the District after reasonable search and an affidavit to this effect is made on behalf of the District, such process may be served by publication for one day each week for three consecutive weeks in a newspaper of general circulation in the District, and, if service of process is by publication, a copy of such process and publication shall be sent to such owner by certified mail at his last known address as recorded in the real estate assessment records of the District. The cost to the District of performing such work, including, without limitation, the reasonable cost to the District of securing the court order authorized by this subsection and any advertising in connection therewith, shall be a charge which may be levied by the Commissioner as a tax against the property abutting the public space in which a vault is located, to be collected in the manner authorized by section 7-914. (Oct. 17, 1968, Pub. L. 90-596, § 309, title III, 82 Stat. 1161.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

§ 7-916. District Council not authorized to impose a rental charge for vaults abutting single or two family homes.

Nothing contained in this title shall be construed as authorizing the District of Columbia Council to

impose a rental charge for the use of any vault abutting real property on which is located a single or two-family dwelling occupied solely for residential purposes, but any such vault shall otherwise be subject to the provisions of this title. (Oct. 17, 1968, Pub. L. 90-596, § 310, title III, 82 Stat. 1162.)

EFFECTIVE DATE

See, sections 7-917 and 7-925.

TITLE IV.—REGULATIONS, INSURANCE, NOTICE, PENALTY, CREDITING OF RENTAL PAYMENTS, AUTHORIZATION OF APPROPRIATIONS, SEPARABILITY PROVISION, COORDINATION WITH SECTION 7-117, AND EFFECTIVE DATES

§ 7-917. District Council authorized to promulgate regulations to carry out the purposes of this subchapter—Effective date of regulations.

The District of Columbia Council after public hearing is authorized to make and promulgate regulations to carry out the purposes of this subchapter. The regulations initially adopted by the Council under the authority of this section to carry out the purposes of title III shall become effective on the effective date of such title, if, not less than ten days prior to such date, the Council has adopted such regulations and printed a notice of such adoption in a newspaper of general circulation in the District. Otherwise, the regulations adopted by the Council under the authority of this section shall become effective ten days after notice of their adoption has been printed in a newspaper of general circulation in the District. (Oct. 17, 1968, Pub. L. 90-596, § 401, title IV, 82 Stat. 1162.)

EFFECTIVE DATE

See, section 7-925.

§ 7-918. Insurance requirements—District and its employees to be included in insurance policies—United States and District Governments exempt from insurance requirements.

The Commissioner shall, in connection with authorizing the use of any public space under the authority of this subchapter, require the person authorized to use such space, prior to any such use, to secure a policy of public liability and property damage insurance or other acceptable security providing for such minimum limits of liability as may be required by the Commissioner. Any such insurance policy shall include the District and its officers and employees as additional parties insured and shall be cancellable only after thirty days' written notice of such cancellation has been received by the Commissioner. No such use of public space shall be authorized or continued for any period unless such insurance or other security is maintained in full force and effect during that period. Nothing herein contained shall be construed as requiring either the United States or the District to secure a policy of public liability and property damage insurance or other security covering any use of public space by either of the said governments under the authority of this subchapter. (Oct 17, 1968, Pub. L. 90-596, § 402, title IV, 82 Stat. 1162.)

EFFECTIVE DATE

See, section 7-925.

§ 7-919. Manner of service of orders and notices required to be served pursuant to the provisions of this subchapter.

(a) Any order or notice required by this subchapter to be served shall be deemed to have been served when served by any of the following methods: (1) when forwarded by certified mail to the last known address of the owner as recorded in the real estate assessment records of the District, with return receipt, and such receipt shall constitute prima facie evidence of service upon such owner if such receipt is signed either by the owner or by a person of suitable age and discretion located at such address: *Provided*, That valid service upon the owner shall be deemed effected (1) if such order or notice shall be refused by the owner and not delivered for that reason; or (2) when delivered to the person to be notified; or (3) when left at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein; or (4) if no such residence or place of business can be found in the District by reasonable search, then if left with any person of suitable age and discretion employed at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or tenement to which said order or notice relates; or (5) if any such order or notice forwarded by certified mail be returned for reasons other than refusal, or if personal service of any such order or notice, as hereinbefore provided, cannot be effected, then if published for one day each week for three consecutive weeks in a daily newspaper published in the District; or (6) if by reason of an outstanding unrecorded transfer of title the name of the owner in fact cannot be ascertained beyond a reasonable doubt, then if served on the owner of record in a manner hereinbefore provided. Any order or notice to a corporation shall, for the purposes of this subchapter, be deemed to have been served on such corporation if served on the president, secretary, treasurer, general manager, or any principal officer of such corporation in the manner hereinbefore provided for the service of orders or notices on natural persons holding property in their own right; and orders or notices to a foreign corporation shall, for the purposes of this subchapter, be deemed to have been served if served personally on any agent of such corporation, or if left with any person of suitable age and discretion residing at the usual residence or employed at the usual place of business of such agent in the District.

(b) In case such order or notice is served by any method other than personal service, notice shall also be sent to the owner by ordinary mail. (Oct. 17, 1968, Pub. L. 90-596, § 403, title IV, 82 Stat. 1163.)

EFFECTIVE DATE

See, section 7-925.

§ 7-920. Penalties for violations—Additional penalties may be prescribed by District Council.

Any person who shall violate any provision of this subchapter shall be punished by a fine not exceeding \$300 or by imprisonment for not more than ten days. In addition, such regulations as may be adopted by the District of Columbia under the authority of this subchapter may provide for the imposition of a fine

of not more than \$300 or imprisonment for not more than ten days for each and every day any public space is used or occupied in a manner or for a purpose specifically prohibited by the said regulations. (Oct. 17, 1968, Pub. L. 90-596, § 404, 82 Stat. 1163.)

EFFECTIVE DATE

See, section 7-925.

§ 7-921. Deposit of rents collected.

Rent paid for the use of public space under the authority of this subchapter shall be deposited to the credit of such special funds or general fund of the District in such proportions as the Commissioner shall, in his discretion, determine. (Oct. 17, 1968, Pub. L. 90-596, § 405, title IV, 82 Stat. 1164.)

EFFECTIVE DATE

See, section 7-925.

§ 7-922. Appropriations.

Appropriations to carry out the purposes of this subchapter are hereby authorized. (Oct. 17, 1968 Pub. L. 90-596, § 406, title IV, 82 Stat. 1164.)

EFFECTIVE DATE

See, section 7-925.

§ 7-923. Separability.

If any provision of this subchapter or of the regulations promulgated under the authority of this subchapter is held invalid, such invalidity shall not affect other provisions either of this subchapter or of the said regulations which can be effected without the invalid provisions, and to this end the provisions of this subchapter and the said regulations are separable. (Oct. 17, 1968, Pub. L. 90-596, § 407, title IV, 82 Stat. 1164.)

EFFECTIVE DATE

See, section 7-925.

§ 7-924. Subchapter not to affect provisions of section 7-117.

Nothing contained in this subchapter shall be construed to affect in any manner the provisions of section 7-117, with respect to streets heretofore or hereafter dedicated in accordance with the provisions of such Act, and to make use of the parking on any such street in accordance with the terms of the fourth proviso of such section, relating to the height of parking and the projection of buildings beyond the building line, the District's right-of-way through said parking for sewers and water mains free of cost, and the use of the parking by the District for the construction of sidewalks. (Oct. 17, 1968, Pub. L. 90-596, § 408, title IV, 82 Stat. 1164.)

EFFECTIVE DATE

See, section 7-925.

REFERENCE IN TEXT

"Such Act" referred to in this section is the Act of May 31, 1900, 31 Stat. 248, ch. 559. The Act consists of two sections. The first section is not classified. The second section thereof is set out as section 7-117.

§ 7-925. Effective dates.

Titles I and IV of this subchapter shall take effect on the date of approval of this subchapter. Title II shall take effect the first day of the first month which occurs more than thirty days after the District of Columbia Council has first adopted and

promulgated regulations to carry out the purposes of such title. Title III shall take effect on the 1st day of July which occurs three months or more after the date of approval of this subchapter. (Oct. 17, 1968, Pub. L. 90-596, § 409, title IV, 82 Stat. 1164.)

SUBCHAPTER II.—RENTAL OF AIRSPACE

§ 7-941. Definitions.

As used in this subchapter—

(1) The term "Commissioner" means the Commissioner of the District of Columbia.

(2) The term "District" means the District of Columbia.

(3) The term "airspace" means the space above and below a street or alley under the jurisdiction of the Commissioner.

(Oct. 17, 1968, Pub. L. 90-598, § 2, 82 Stat. 1166.)

SHORT TITLE

Section 1, act Oct. 17, 1968, Pub. L. 90-598, provided that "This Act [this subchapter] may be cited as the 'District of Columbia Public Space Utilization Act'."

§ 7-942. Commissioner's authority with respect to airspace—Agreements with Federal Government.

The Commissioner, in conformity with the comprehensive plan for the National Capital prepared under section 1-1004, may—

(1) enter into leases for the use of airspace in The District to an extent not inconsistent with the use, operation, and maintenance of, any street or alley;

(2) use airspace for such public purposes as are authorized by law;

(3) enter into agreements with the Federal Government for the purpose of receiving grants or other financial assistance under the Federal programs in connection with the construction, use or operation of any structure in airspace; and

(4) enter into agreements with the Federal Government to enable the Federal Government to construct Federal buildings in the space above and below any street or alley, title to which is in the District.

(Oct. 17, 1968, Pub. L. 90-598, § 3, 82 Stat. 1166.)

§ 7-943. Terms and conditions to be included in airspace leases.

Any lease of airspace entered into under this subchapter shall provide—

(1) that such airspace shall not be used to deprive any real property not owned by the lessee of easements of light, air, and access;

(2) for a clearance of at least fifteen feet between the recorded grade of a street or alley and the lowest portion of any structure (other than supporting columns) constructed over such street or alley;

(3) that upon the expiration or termination of the lease of airspace the Commissioner may require (at the expense of the lessee or his successor in interest) the removal of any structure constructed or erected in such airspace and the restoration of such airspace to its condition prior to the construction or erection of such structure;

(4) that all the rights, duties, terms, conditions, agreements, and covenants set forth and contained

in such lease shall run with the abutting real property owned by the lessee and shall apply to the lessee, his heirs, legal representatives, successors, and assignees;

(5) that the lessee shall, at his expense, record a copy of the lease in the Office of the Recorder of Deeds of the District of Columbia;

(6) for the payment of such rents and fees, and the posting of such bond or such other security, by the lessee, as the Commissioner determines to be necessary or desirable; and

(7) for such other terms and conditions as the Commissioner determines to be necessary or desirable.

(Oct. 17, 1968, Pub. L. 90-598, § 4, 82 Stat. 1166.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-944. Commissioner authorized to execute airspace leases under certain conditions.

The Commissioner may execute a lease of airspace under this subchapter if—

(1) the lessee of the airspace has a fee simple title to the real property abutting such airspace and the lease is for airspace which lies only within the frontages of such abutting real property which are directly opposite;

(2) the Zoning Commission of the District of Columbia, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the use to be permitted in such airspace and has established regulations applicable to the use of such airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, offstreet parking and floor area ratios applicable to such structure, and easements of light, air, and access;

(3) the lessee has submitted to the Commissioner, for his review and approval, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any structure to be erected in such airspace;

(4) the Commissioner with respect to any structure proposed to be constructed in an area subject to sections 5-410 and 5-411, or sections 5-801 to 5-805 has submitted to the Commission of Fine Arts for its review and recommendations, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any such structure; and

(5) the Commissioner, with respect to any structure proposed to be constructed over space utilized or to be utilized for the construction and operation of the subway of the Washington Metropolitan Area Transit Authority, has submitted to the Authority for its review and recommendations the plans, elevations, sections, and a scale model of any such structure.

(Oct. 17, 1968, Pub. L. 90-598, § 5, 82 Stat. 1167.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-945. Cost of removal or relocation of public or private facilities—Commissioner's approval required.

The District shall not pay the cost of any removal or relocation of publicly or privately owned facilities in a street or alley in connection with the construction of a structure in airspace leased under this subchapter. No such facilities may be removed or relocated unless the Commissioner has approved all arrangements for such removal or relocation. (Oct. 17, 1968, Pub. L. 90-598, § 6, 82 Stat. 1167.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-946. Applicability of zoning and other laws to airspace structures.

Zoning laws and regulations and other laws and regulations applicable to the construction, use, and occupancy of buildings and premises, including building, electrical, plumbing, housing, health, and fire regulations, shall be applicable to structures constructed in airspace. (Oct. 17, 1968, Pub. L. 90-598, § 7, 82 Stat. 1167.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-947. Airspace and structures erected thereon deemed real property for purpose of taxation, water and sewer charges—Exemptions.

For the purposes of this subchapter, airspace and structures constructed or erected in airspace shall be deemed to be real property and shall be liable to assessment, taxation, and water and sewer service charges by the District from the beginning of the term or period of such lease. For the purposes of real property assessments and taxation, the value of airspace, other than any structure constructed or erected in airspace, shall be its fair market value. No tax or assessment shall be levied with respect to airspace or structures in airspace—

(1) occupied exclusively by the Federal Government or the District government, or

(2) occupied and used by one or more organizations which, under section 47-801a are exempt from real property taxation.

(Oct. 17, 1968, Pub. L. 90-598, § 8, 82 Stat. 1167.)

CODIFICATION

The above text is designated as subsection (a) of section 8, act Oct. 17, 1968, Pub. L. 90-598. However, there is no subsection (b) in the original act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-948. Deposit of rents, fees, taxes, assessments, sewer and water charges—Payment of expenditures.

(a) Except as provided by subsection (b), all collections, including rents and fees, received by the District under this subchapter shall be deposited in the Treasury of the United States in a trust fund, from which may be paid, in the same manner as is provided by law for other expenditures of the District, such expenditures as are necessary to carry out the purposes of this subchapter, including necessary expenses connected with the operation, maintenance, and disposition of property coming into the possession of the District by reason of a default

under a lease entered into under this subchapter. The unobligated balance in such trust fund in excess of \$100,000 as of the end of any fiscal year shall be deposited in the Treasury to the credit of such special funds or the general fund of the District in such proportions as the Commissioner may determine.

(b) Taxes (including payments in lieu of taxes), special assessments, and sanitary sewer and water service charges shall be deposited directly to the respective funds to which such revenues are normally deposited. (Oct. 17, 1968, Pub. L. 90-598, § 9, 82 Stat. 1168.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-949. Restoration of airspace to its prior condition upon expiration or termination of lease—Cost of restoration.

If, upon the expiration or termination of a lease of airspace under this subchapter—

(1) the Commissioner determines that any structure constructed or erected in such airspace should be removed or such airspace should be restored to its condition prior to the construction or erection of such structure, and

(2) the lessee or his successor in interest, upon the request of the Commissioner, fails, after a reasonable time, to remove such structure or to restore such airspace to its condition prior to the construction or erection of such structure, the Commissioner may remove such structure and restore such airspace. The cost of such removal and restoration shall be assessed against the abutting properties as a tax. Such tax shall be collected in the manner prescribed by section 5-506, for the collection of amounts assessed as a tax under that section. (Oct. 17, 1968, Pub. L. 90-598, § 10, 82 Stat. 1168.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-950. Regulations by District Council, authorized—Penalties for violating regulations—Notice of violation—Suit to enjoin continuing violations.

(a) The District of Columbia Council shall, after public hearing, promulgate such regulations as may be necessary to carry out this subchapter.

(b) Any regulations promulgated under this subchapter may provide for the imposition of a fine of not more than \$300, or imprisonment of not more than ninety days, or both, for any violation of such regulations. Prosecution for violations of such regulations shall be conducted in the name of the District by the Corporation Counsel.

(c) The Commissioner shall—

(1) give any person violating a regulation promulgated under this subchapter notice of such violation, and

(2) set a date by which such person shall comply with such regulation.

Each day after such date during which there is a failure to comply with such regulation shall be a separate offense.

(d) The Commissioner may maintain an action in the United States District Court for the District of Columbia to enjoin the continuing violation of any regulation adopted, under the authority of this

subchapter, by the District of Columbia Council or by the Zoning Commission. (Oct. 17, 1968, Pub. L. 90-598, § 11, 82 Stat. 1168.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-951.

§ 7-951. Federal and District Governments authorized to construct airspace structures under certain conditions.

The Federal Government and District government are each authorized, without regard to the requirements of sections 7-943 through 7-950, to construct any structure in airspace, subject to the following conditions:

(1) The government proposing to construct any structure in airspace shall have fee simple title to real property abutting such real property.

(2) The airspace to be occupied by such structure shall be only within the frontages of the real property abutting such airspace which are directly opposite.

(3) The airspace to be occupied by such structure shall not be used to deprive any real property, not owned by the Federal Government or District government, of its easements of light, air, or access.

(4) The construction of any such structure by the District government across a street or alley, the title to which is in the United States, shall be in accordance with an agreement between the Commissioner and the Attorney General of the United States, subject to such terms and conditions as the Attorney General and the Commissioner agree to include in the agreement.

(5) Section 5-428 shall apply to the construction of any structure in such airspace by the Federal Government and, to the extent required by subsection (c) of section 1-1005, to the construction of any structure in such airspace by the District government.

(6) Plans for the construction of any structure in such airspace by the Federal Government or the District government shall be subject to review by the National Capital Planning Commission in accordance with section 1-1005.

(7) The construction of any such structure by the Federal Government or the District government shall be subject to the recommendations of the Commission of Fine Arts to the extent required by sections 5-410 and 5-411 or sections 5-801 to 5-805.

(Oct. 17, 1968, Pub. L. 90-598, § 12, 82 Stat. 1169.)

§ 7-952. Actions by Federal and District Governments to recover use of leased airspace—Compensation to be paid on recovery of leased airspace.

If the Federal Government or the District government brings an action to recover the use of airspace leased under this subchapter, the government having title to the street or alley over or under which such airspace is located shall pay to the lessee of such airspace the fair market value of the remainder of his leasehold interest in such airspace. If the Federal Government recovers the use of airspace over or under a street to which it has title, the District government shall pay to the Federal Government an

amount equal to the rents and fees received by the District government for the rental of such airspace or an amount equal to the fair market value of the remainder of the leasehold interest in such airspace, whichever is smaller. (Oct. 17, 1968, Pub. L. 90-598, § 13, 82 Stat. 1170.)

§ 7-953. Area exempted from provisions of this subchapter.

This subchapter shall not apply to airspace within the area in the District bounded on the north by G Street Northeast and Northwest, on the south by G Street Southeast and Southwest, on the east by Eleventh Street Northeast and Southeast, and on the west by Third Street Southwest and Northwest. (Oct. 17, 1968, Pub. L. 90-598, § 14, 82 Stat. 1170.)

Chapter 10.—REAL ESTATE SALE OR RENT SIGNS

§ 7-1001. Signs on sidewalks or parking prohibited—Number of signs—Removal—Penalties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 11.—BARBED-WIRE FENCES

§ 7-1102. Construction or maintenance outside fire limits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1105. Notice by publication—Removal by inspector of buildings—Cost, assessment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 12.—MISCELLANEOUS

§ 7-1201. Jurisdiction over Conduit Road transferred to Commissioners—Abutting property owners—Assessment—Application of municipal laws.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(172) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1205. Denomination of streets as “business streets.”

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(173) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

CROSS REFERENCE

For provisions relating to rental of public space, see title 7, chapter 9.

§ 7-1210. Sidings may be laid by Baltimore and Potomac Railroad Company—Authority of Commissioners.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(174) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1212. Baltimore and Ohio Railroad Company authorized to extend tracks and maintain additional stations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(175) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1214. Streets to be under or over railroad tracks—Cost of opening streets—Maintenance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1215. Subways and viaducts to eliminate grade crossings authorized in discretion of Commissioners—Cost.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1218. Branch tracks, spurs, or sidings authorized—Plats or charts kept on file.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(176) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to approving the construction of railroad tracks, etc., and plans for branch sidings as provided in the note to this section, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1219. Extensions through public grounds authorized—Exceptions—Approval of Fine Arts Commission.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(177) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1220. Authority of Commissioners under § 7-1215 not affected.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1222. Company to pay portion of cost of paving or repairing streets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1226. Plans to be approved by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1227. Grade crossings subject to approval of Commissioners—Overhead bridge.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1228. Authority of Commissioners not abridged.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1230. Electrification of existing steam-railroad lines—Structures, equipment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1232. Construction of conduit systems—Government use of three ducts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1233. Jurisdiction not abridged.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1235. Employment of temporary special and technical employees—Report by Commissioners—Tenure of employment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1236. Employment of temporary laborers and mechanics—Per diem rate of pay.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(178) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to the approval of wage rates fixed and adjusted from time to time by a wage board, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 7-1237. Employment of horses, horse-drawn vehicles, and motortrucks—Report by Commissioners—Temporary use under special conditions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 7-1238. Employment of personnel and equipment to execute work payable from miscellaneous trust fund deposits—Delegation of hiring authority by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 8.—PARKS AND PLAYGROUNDS

Chapter 1. PARKS AND PLAYGROUNDS

§ 8-108. Park system—Control—Inclusions—Exclusions, improvements, parking spaces—"Business streets"—Conditions requisite.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(179) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Bus tours on Capitol Mall

A certificate of convenience and necessity is not required of a concessionaire under contract with the Secretary of Interior to conduct bus tours of Capitol Mall from Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corporation v. Washington Metropolitan Area Transit Commission et al.* (1968, 89 S. Ct. 354, rev'g 390 F. 2d 474).

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and it was not protected against competition from concessionaire acting under contract with Secretary of Interior. *Id.*

Preliminary injunction

The court should not have granted a preliminary injunction against Secretary of Interior, in dispute with transit system over Secretary's plan to establish a visitor interpretative shuttle service within Mall area of District of Columbia, which plan combined transportation of visitors between points of interest with monologue on historical significance, where record revealed, inter alia, vital differences between operation proposed by Secretary and transit system's regular route and sightseeing services in the vicinity of the Mall. *S. L. Udall, Secretary, etc. v. D.C. Transit System, Inc.* (1968, 404 F. 2d 1358, 131 U.S. App. D.C. 381. See also 390 F. 2d 474).

§ 8-109. Control by director of vehicles and traffic regulations.

NOTES TO DECISIONS

Bus tours on Capitol Mall

A certificate of convenience and necessity is not required of a concessionaire under contract with Secretary of Interior to conduct bus tours of Capitol Mall from Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corporation v. Washington Metropolitan Area Transit Commission et al.* (1968, 89 S. Ct. 354, rev'g 390 F. 2d 474).

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and it was not protected against competition from concessionaire acting under contract with Secretary of Interior. *Id.*

§ 8-110. Street parking.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(180) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 8-114. Portion of Water Street made part of park system—Consent of owners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-115. Transfer of jurisdiction over property between United States and District of Columbia.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(181) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7-136.

NOTES TO DECISIONS

Construction

Statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance would prevail over statute providing there should not be erected on any reservation, park or public grounds of the United States within the district any building or structure without express authority of Congress if land of United States is transferred to district for use different than that to which it was being put. *D.C. Federation of Civic Associations, Inc. et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 540; rev'd 391 F. 2d 498, 129 U.S. App. D.C. 125).

Where United States transferred parkland to District of Columbia for use as bridge approach, statute, providing that there shall not be erected on any park of the United States within the District of Columbia any building or structure without express authority of Congress, did not apply. *Id.*

Transfer of jurisdiction

Under statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance, district was authorized to use area which had been acquired by the United States solely for park purposes for bridge approach. *D.C. Federation of Civic Associations, Inc., et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 540; rev'd 391 F. 2d 478, 129 U.S. App. D.C. 125).

Under statute providing that federal and district authorities administering properties within District of Columbia owned by the United States or by the district are authorized to transfer jurisdiction over parts or all of such properties among or between themselves for purposes of administration and maintenance, district and United States had authority to use parklands in connection with construction of three highway projects. *Id.*

§ 8-118. Whitehaven Parkway—Federal property in exchange.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-119. Whitehaven Parkway—Exchange authorized with property owners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-120. Whitehaven Parkway—Plats to be prepared.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-126. Jurisdiction over reservation No. 185.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-127. Use of spaces or reservations for widening roadways.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-130. Part of Washington Aqueduct for playground purposes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-131. Authority to make rules and regulations for playgrounds and recreation centers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-132. Volunteer aid for playgrounds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-136. Jurisdiction of reservation No. 32 transferred to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-137. Jurisdiction of reservation No. 290 transferred to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-138. Jurisdiction of reservation No. 8 transferred to Commissioners.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(182) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 8-140. Public convenience stations—Authority to make rules, regulations, and charges.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(183) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 8-141. Part of reservation 13 transferred to Commissioners for use as burial ground.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-142. Site of former Georgetown Reservoir transferred to jurisdiction of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-143. Authority to make regulations for care of public grounds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-144. Authority to make regulations—Extended to sidewalks.

NOTES TO DECISIONS

Bus tours on Capitol Mall

A certificate of convenience and necessity is not required of a concessionaire under contract with the Secretary of Interior to conduct bus tours of Capitol Mall from Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corporation v. Washington Metropolitan Area Transit Commission et al.* (1968, 89 S. Ct. 354, rev'g 390 F. 2d 474).

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and it was not protected against competition from concessionaire acting under contract with Secretary of Interior. *Id.*

§ 8-151. Rock Creek Park—Injury or diminution of the flow of water in Rock Creek.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-162. Glover Parkway and Children's Playground.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(184) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 8-168. Public bathing beach authorized.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(185) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section insofar as they relate to the making of regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 8-170. Bathing pools and beaches—Operation—Fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2.—RECREATION BOARD

ARTICLE I.—MEMBERSHIP OF THE RECREATION BOARD

§ 8-201. Recreation Board created.

ABOLITION OF RECREATION BOARD AND POSITION OF SUPERINTENDENT OF RECREATION

Section 5 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"*Abolition.* The Recreation Board, together with the position of Superintendent of Recreation, is hereby abolished. The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the outstanding affairs of the Recreation Board and the Superintendent of Recreation."

DEFINITIONS CONTAINED IN REORGANIZATION PLAN NO. 3, 1968

Section 1 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"*Definitions.* (a) As used in this reorganization plan, the term 'the Recreation Board' means the District of Columbia Recreation Board provided for in D.C. Code, sec. 8-201 and in other law.

"(b) References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan."

DEPARTMENT OF RECREATION

Org. Ord. No. 10, dated June 27, 1968, established a Department of Recreation, under the direction and control of the Commissioner, headed by a Director of Recreation. For complete details see the order set out in the appendix to title 1.

§ 8-202. Composition of Board—Qualifications—Tenure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- "(1) Board of Education (including the public school system).
- "(2) Board of Library Trustees (including the public libraries).
- "(3) Recreation Board.
- "(4) Public Service Commission.
- "(5) Zoning Commission.
- "(6) Zoning Advisory Council.
- "(7) Board of Zoning Adjustment.
- "(8) Office of the Recorder of Deeds.
- "(9) Armory Board."

ARTICLE II.—FUNCTIONS AND ADMINISTRATIVE RESPONSIBILITIES OF THE BOARD

§ 8-208. Determination of general policy—Supervision of expenditures.

TRANSFER OF FUNCTIONS TO THE COMMISSIONER OF THE DISTRICT

Sections 2 and 3 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Transfer of functions to Commissioner. There are hereby transferred to the Commissioner of the District of Columbia all functions of the Recreation Board or of its chairman and members and all functions of the Superintendent of Recreation (appointed pursuant to D.C. Code, sec. 8-209).

"Delegations. The functions transferred by the provisions of section 2 hereof shall be subject to the provisions of section 305 of Reorganization Plan No. 3 of 1967 (32 F.R. 11671)."

§ 8-209. Superintendent of Recreation—Appointment and duties—Qualifications—Other employees—Compensation—Volunteer services—Night differential for nonregularly scheduled work.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO THE COMMISSIONER OF THE DISTRICT

Sections 2 and 3 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Transfer of functions to Commissioner. There are hereby transferred to the Commissioner of the District of Columbia all functions of the Recreation Board or of its chairman and members and all functions of the Superintendent of Recreation (appointed pursuant to D.C. Code, sec. 8-209).

"Delegations. The functions transferred by the provisions of section 2 hereof shall be subject to the provisions of section 305 of Reorganization Plan No. 3 of 1967 (32 F.R. 11671)."

ABOLITION OF RECREATION BOARD AND POSITION OF SUPERINTENDENT OF RECREATION

Section 5 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Abolition. The Recreation Board, together with the position of Superintendent of Recreation, is hereby abolished. The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the outstanding affairs of the Recreation Board and the Superintendent of Recreation."

§ 8-211. Trust fund created—Depository for fees and receipts—Expenditures—Quarterly audit.

INCIDENTAL TRANSFER PROVISIONS IN REORGANIZATION PLAN No. 3, 1968

Section 4 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Incidental transfers. (a) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions of the Recreation Board or the Superintendent of Recreation are hereby transferred to the Commissioner of the District of Columbia.

"(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in subsection (a) of this section shall be carried out in such manner as he may direct and by such agencies as he shall designate."

§ 8-212. Annual budget.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the plan, set out in the appendix to title 1.

§ 8-213. Annual report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

ARTICLE III.—RELATIONSHIP OF THE BOARD TO OTHER AGENCIES

§ 8-214. Transfer of functions of Community Center and Playgrounds Department—Transfer of unexpended funds.

TRANSFER OF FUNCTIONS TO THE COMMISSIONER OF THE DISTRICT

Sections 2 and 3 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Transfer of functions to Commissioner. There are hereby transferred to the Commissioner of the District of Columbia all functions of the Recreation Board or of its chairman and members and all functions of the Superintendent of Recreation (appointed pursuant to D.C. Code, sec. 8-209).

"Delegations. The functions transferred by the provisions of section 2 hereof shall be subject to the provisions of section 305 of Reorganization Plan No. 3 of 1967 (32 F.R. 11671)."

§ 8-215. Control of lands, buildings, and facilities used.

INCIDENTAL TRANSFER PROVISIONS IN REORGANIZATION PLAN No. 3, 1968

Section 4 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Incidental transfers. (a) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions of the Recreation Board or the Superintendent of Recreation are hereby transferred to the Commissioner of the District of Columbia.

"(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in subsection (a) of this section shall be carried out in such manner as he may direct and by such agencies as he shall designate."

§ 8-216. Powers of Board of Education, Commissioners of District of Columbia, or National Park Service unabridged.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-217. Agreements for maintenance and improvement of playgrounds, etc., under control of Board of Education, Commissioners of District of Columbia, or National Park Service—Transfer of equipment and personnel.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 8-218. Services of other agencies.

INCIDENTAL TRANSFER PROVISIONS IN REORGANIZATION PLAN No. 3, 1968

Section 4 of Reorg. Plan No. 3 of 1968, effective June 30, 1968, provided:

"Incidental transfers. (a) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions of the Recreation Board or the Superintendent of Recreation are hereby transferred to the Commissioner of the District of Columbia.

"(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in subsection (a) of this section shall be carried out in such manner as he may direct and by such agencies as he shall designate."

TITLE 9.—PUBLIC BUILDINGS AND GROUNDS

Chapter 1.—REGULATING PROVISIONS

Sec.

9-118a. Protection of Grounds.

9-118b. Use of part of the United States Capitol Grounds as a recreation area.

9-123. Unlawful conduct on Capitol Grounds or in Buildings.

9-125. Prosecution and punishment of offenses—General laws not superseded.

9-126a. Detail of personnel from Metropolitan Police to Capitol Police Board—Duties and status of detailed personnel.

9-132. Definitions.

§ 9-101. Wharf property—Control by Commissioners of District—Authority to make rules and regulations—Jurisdiction of Chief of Engineers.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(186) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-102. Authority to make rules and regulations for wharf property—Leases—Rents.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(187) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-118. Capitol grounds area.

The United States Capitol Grounds shall comprise all squares, reservations, streets, roadways, walks, and other areas as defined on a map entitled "Map showing areas comprising United States Capitol Grounds", dated June 25, 1946, approved by the Architect of the Capitol and recorded in the Office of the Surveyor of the District of Columbia in book 127, page 8, including all additions added thereto by law subsequent to June 25, 1946, and the jurisdiction and control over the United States Capitol Grounds, heretofore vested by law in the Architect of the Capitol, is hereby extended to the entire area of the United States Capitol Grounds, and the Architect of the Capitol shall be responsible for the maintenance and improvement thereof: *Provided*, That those streets and roadways in said United States Capitol Grounds shown on said map as being under the jurisdiction and control of the Commissioners of the District of Columbia shall continue under such jurisdiction and control, and said Commissioners shall be responsible for the maintenance and improvement thereof: *Provided further*, That the

Commissioners of the District of Columbia shall be permitted to enter any part of said United States Capitol Grounds for the purpose of repairing or maintaining or, subject to the approval of the Architect of the Capitol, for the purpose of constructing or altering, any utility service of the District of Columbia government. (July 31, 1946, 60 Stat. 718, ch. 707, § 1; Oct. 20, 1967, Pub. L. 90-108, § 1(a), 81 Stat. 275.)

AMENDMENTS

1967—Section 1(a), Pub. L. 90-108, amended section by inserting after the words "book 127, page 8," the words "including all additions added thereto by law subsequent to June 25, 1946," and by striking out the "as defined on the aforementioned map."

Prosecution of prior violations not affected by Oct. 20, 1967 amendment. Applicability of Pub. L. 90-108 to violations occurring after Oct. 20, 1967.

Pub. L. 90-108, section 3 provided as follows:

"Prosecutions for violations of sections 9-118 to 9-126, 9-127 to 9-132 and of section 22-3111, occurring prior to the enactment of these amendments [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall not be affected by these amendments or abated by reason thereof. The provisions of amendments to sections 9-118, 9-123, 9-125, 9-132, and 22-3111 shall be applicable to violations occurring after its enactment."

ACQUISITION OF PROPERTY TO EXTEND ADDITIONAL SENATE OFFICE BUILDING

Pub. L. 85-429, May 29, 1958, 72 Stat. 148, and Pub. L. 85-591, Aug. 6, 1958, 72 Stat. 495, authorized the Architect of the Capitol to acquire certain real property for purposes of extension of Additional Senate Office Building Site or for Additions to United States Capitol Grounds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

ORDER OF THE HOUSE OFFICE BUILDING COMMISSION RELATING TO CERTAIN PROPERTIES (October 17, 1967)

WHEREAS, under authority of Section 1202 of Public Law 24, 84th Congress (69 Stat. 41), approved April 22, 1955, known as the "Additional House Office Building Act of 1955", the Architect of the Capitol, at the direction of the House Office Building Commission, acquired during the period 1955 to 1960, on behalf of the United States, by condemnation, seven squares in the District of Columbia, located south of Independence Avenue, in the vicinity of the United States Capitol Grounds, as a site for an additional office building and other necessary facilities for the House of Representatives and for additions to the United States Capitol Grounds;

WHEREAS, under the aforesaid authority, the Architect of the Capitol, at the direction of the Commission, acquired in 1965 on behalf of the United States, through transfer from the Redevelopment Land Agency, Square 639, also located south of Independence Avenue, for an addition to the United States Capitol Grounds;

WHEREAS, the aforesaid eight squares are identified and bound as follows: *Square 635*, bounded on the north by Independence Avenue, on the east by Delaware Avenue, on the west by First Street, on the south by C Street; *Square 637*, bounded on the north by C Street, on the east by South Capitol Street, on the west by Delaware Avenue, on the south by D Street; *Square South of 635*, bounded on the north by C Street, on the east by Delaware Avenue, on the west and south by Canal Street; *Square 691*, bounded on the north by C Street, on the east by New Jersey Avenue, on the west by South Capitol Street, on the south by D Street; *Square 692*, bounded on the north by C Street, on the east by First Street, on the west by New Jersey Avenue, on the south by D Street; *Square 732 north* bounded on the north by Independence Avenue, on the east by Second Street, on the west by First Street, on the south by Carroll Street; *Square 732 south*, bounded on the north by Carroll Street, on the east by Second Street, on the west by First Street, on the south by C Street; and *Square 639*, bounded on the north by D Street, on the east by South Capitol Street, on the west and south by Canal Street;

WHEREAS, title to all real property in these 8 squares is now vested in fee simple absolute in the United States of America;

WHEREAS, subsequent to acquisition of these 8 squares, under the aforesaid authority, all alleys in these squares were closed and vacated, as were also Delaware Avenue between Independence Avenue and C Street and Carroll Street between First and Second Streets, by the Commissioners of the District of Columbia, and all areas between the property lines and outer faces of curbs surrounding these squares and Square 636 were transferred from the jurisdiction of the Commissioners of the District of Columbia to the jurisdiction of the Architect of the Capitol;

WHEREAS, the Rayburn House Office Building has been constructed on Squares 635 and 636 (the latter square being already owned by the government and having been combined with Square 635 as a site for this building under the aforesaid authority), and the said building is now maintained by the Architect of the Capitol as a part of the House Office Buildings, and the sidewalks and other paved and grassed areas surrounding this building are now maintained as part of the Capitol Grounds;

WHEREAS, underground garages for the House of Representatives have been constructed in Squares 637 and 691 and are now maintained by the Architect of the Capitol as part of the House Office Buildings, and the areas above these garages have been landscaped as a part of the Capitol Grounds;

WHEREAS, Squares South of 635 and 639 have been developed as parking lots for automobiles for Members and employees of the House and are now maintained as part of the Capitol Grounds;

WHEREAS, part of Square 692 is occupied by the Congressional Hotel, acquired by the Architect of the Capitol under the aforesaid authority and leased to the Knott Hotels Corporation for use as a hotel, and the remainder of this square has been converted into a parking lot for automobiles for Members and employees of the House and is now maintained as a part of the Capitol Grounds;

WHEREAS, Squares 732 north and south were acquired as an addition to the Capitol Grounds, are now maintained as part of the Capitol Grounds, and will continue to be so maintained until such time as required for construction thereon of the Library of Congress James Madison Memorial Building, authorized by Public Law 89-260, approved October 19, 1965;

WHEREAS, the aforesaid Additional House Office Building Act provides, in pertinent part, with respect to these properties, as follows:

"* * * At such time or times as may be fixed by order of the House Office Building Commission, (1) any real property acquired under, or made available for the purposes of, this chapter shall become part of the United States Capitol Grounds and subject to the Act entitled 'An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes', approved July 31, 1946 (sections 9-118, 9-119 to 9-126, 9-127 to 9-132, and 40 U.S.C., secs. 193a-193m, 212a, and 212b), and (2) the building and all facilities

constructed pursuant to section 1201 of this chapter shall become subject to such Act approved July 31, 1946, and to the provisions of law relating to the control, supervision, and care of the House Office Building contained in the Act approved Mar. 4, 1907, as amended (40 U.S.C., sec. 175)."

NOW, THEREFORE, in formal compliance with the aforesaid provisions of the Additional House Office Building Act, the House Office Building Commission, in confirmation of actions heretofore taken by the Commission, hereby orders:

1. The Rayburn House Office Building, the subway connecting such building to the Capitol Building, the pedestrian tunnels connecting such building to the Longworth House Office Building, the underground garages in Squares 637 and 691 and the tunnels connecting these garages to the House Office Buildings, are hereby declared to be House Office Buildings and, as such, are hereby made subject to those provisions of the Act of July 31, 1946 (sections 9-118, 9-119 to 9-126, 9-127 to 9-132, and 40 U.S.C., secs. 193a-193m, 212a, and 212b), including any amendments to such Act, which are applicable to the Capitol Buildings, and to the Act of Mar. 4, 1907 (40 U.S.C. 175).

2. All other real property acquired by the Architect of the Capitol under authority of the Additional House Office Building Act is hereby declared to be part of the United States Capitol Grounds and is hereby made subject to the Act of July 31, 1946 (sections 9-118, 9-119 to 9-126, 9-127 to 9-132, and 40 U.S.C., secs. 193a-193m, 212a, and 212b), including any amendments to such Act.

3. Nothing herein shall be construed to contravene (a) the provisions of Public Law 89-260 authorizing the future use of Squares 732 north and south as a site for the Library of Congress James Madison Memorial Building; or (b) the authority delegated by the House Office Building Commission to the Select House Committee under authority of H. Res. 514, 90th Congress, pertaining to the direction and supervision of the use and operation of the four House Garages and outdoor parking lots.

4. This order shall become effective immediately.
HOUSE OFFICE BUILDING COMMISSION.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-118a. Protection of grounds.

It shall be the duty of the Capitol police hereafter to prevent any portion of the Capitol grounds and terraces from being used as play grounds or otherwise, so far as may be necessary to protect the public property, turf and grass from destruction. (Apr. 29, 1876, ch. 86, 19 Stat. 41.)

CODIFICATION

Section is also set out in 40 U.S.C. § 214.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-118b. Use of part of the United States Capitol Grounds as a recreation area.

Notwithstanding the provisions of section 9-118a and the provisions of sections 9-118, 9-119 to 9-126, 9-127 to 9-132, the Architect of the Capitol is authorized to permit the Board of Commissioners of the District of Columbia to operate for recreational purposes only, and without any improvement to said land, that part of the United States Capitol Grounds known as Square 732 in the District of Columbia, bounded by Independence Avenue, S.E., Second Street, S.E., C Street, S.E., and First Street, S.E., and intersected by Carroll Street, for such period of time as said land is not required for building or other purposes by the Architect of the Capitol. (Apr. 29, 1966, Pub. L. 89-698, title IV, § 401, 80 Stat. 1072.)

CODIFICATION

Section is also classified to 40 U.S.C. § 214a.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see section 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 9-119 to 9-122.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 9-118b, 9-125.

§ 9-123. Unlawful conduct on Capitol Grounds or in buildings.

(a) It shall be unlawful for any person or group of persons—

(1) Except as authorized by regulations which shall be promulgated by the Capitol Police Board:

(A) to carry on or have readily accessible to the person of any individual upon the United States Capitol Grounds or within any of the Capitol Buildings any firearm, dangerous weapon, explosive, or incendiary device; or

(B) to discharge any firearm or explosive, to use any dangerous weapon, or to ignite any incendiary device, upon the United States Capitol Grounds or within any of the Capitol Buildings; or

(C) to transport by any means upon the United States Capitol Grounds or within any of the Capitol Buildings any explosive or incendiary device; or

(2) Knowingly, with force and violence, to enter or to remain upon the floor of either House of the Congress.

(b) It shall be unlawful for any person or group of persons willfully and knowingly—

(1) to enter or to remain upon the floor of either House of the Congress, to enter or to remain in any cloakroom or lobby adjacent to such floor, or to enter or to remain in the Rayburn Room of the House or the Marble Room of the Senate, unless such person is authorized, pursuant to rules adopted by that House or pursuant to authorization given by that House, to enter or to remain upon such floor or in such cloakroom, lobby, or room;

(2) to enter or to remain in the gallery of either House of the Congress in violation of rules governing admission to such gallery adopted by that House or pursuant to authorization given by that House;

(3) to enter or to remain in any room within any of the Capitol Buildings set aside or designated for the use of either House of the Congress or any Member, committee, subcommittee, officer, or employee of the Congress or either House thereof with intent to disrupt the orderly conduct of official business;

(4) to utter loud, threatening, or abusive language, or to engage in any disorderly or disruptive conduct, at any place upon the United States Cap-

itol Grounds or within any of the Capitol Buildings with intent to impede, disrupt, or disturb the orderly conduct of any session of the Congress or either House thereof, or the orderly conduct within any such building of any hearing before, or any deliberations of, any committee or subcommittee of the Congress or either House thereof;

(5) to obstruct, or to impede passage through or within, the United States Capitol Grounds or any of the Capitol Buildings;

(6) to engage in any act of physical violence upon the United States Capitol Grounds or within any of the Capitol Buildings; or

(7) to parade, demonstrate, or picket within any of the Capitol Buildings.

(c) Nothing contained in this section shall forbid any act of any Member of the Congress, or any employee of a Member of the Congress, any officer or employee of the Congress or any committee or subcommittee thereof, or any officer or employee of either House of the Congress or any committee or subcommittee thereof, which is performed in the lawful discharge of his official duties. (July 31, 1946, 60 Stat. 718, ch. 707, § 6; Oct. 20, 1967, Pub. L. 90-108, § 1(b), 81 Stat. 276.)

AMENDMENTS

1967—Section 1(b), Pub. L. 90-108, amended section to read as above set out. For provisions of section prior to amendment see main volume.

Prosecution of prior violations not affected by Oct. 20, 1967 amendment. Applicability of Pub. L. 90-108 to violations occurring after Oct. 20, 1967.

Pub. L. 90-108, section 3 provided as follows:

“Prosecutions for violations of sections 9-118 to 9-126, 9-127 to 9-132 and of section 22-3111, occurring prior to the enactment of these amendments [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall not be affected by these amendments or abated by reason thereof. The provisions of amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111 shall be applicable to violations occurring after its enactment.”

CROSS REFERENCE

Order of House Office Building Commission relating to certain Capitol Grounds properties, see note to § 9-118.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-118b, 9-125.

§ 9-124. Parades or assemblages and displays forbidden in Capitol Grounds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-118b, 9-125.

NOTES TO DECISIONS

Convening of three-judge court

Where constitutional challenges to statutes were plainly unsubstantial, application for convening of three-judge court would be dismissed. *J. Rankin Brigade et al. v. Chief of the Capitol Police et al.* (1968, 278 F. Supp. 233).

§ 9-125. Prosecution and punishment of offenses—
General laws not superseded.

(a) Any violation of section 9-123(a), and any attempt to commit any such violation, shall be a felony punishable by a fine not exceeding \$5,000, or imprisonment not exceeding five years, or both.

(b) Any violation of sections 9-119 to 9-122, 9-123(b) and 9-124, and any attempt to commit any such violation, shall be a misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding six months, or both.

(c) Violations of this Act, including attempts or conspiracies to commit such violations, shall be prosecuted by the United States attorney or his assistants in the name of the United States. None of the general laws of the United States and none of the laws of the District of Columbia shall be superseded by any provision of this Act. Where the conduct violating this Act also violates the general laws of the United States or the laws of the District of Columbia, both violations may be joined in a single prosecution. Prosecution for any violation of section 9-123(a) or for conduct which constitutes a felony under the general laws of the United States or the laws of the District of Columbia shall be in the United States District Court for the District of Columbia. All other prosecutions for violations of this Act may be in the District of Columbia Court of General Sessions. Whenever any person is convicted of a violation of this Act and of the general laws of the United States or the laws of the District of Columbia, in a prosecution under this subsection, the penalty which may be imposed for such violation is the highest penalty authorized by any of the laws for violation of which the defendant is convicted. (July 31, 1946, 60 Stat. 719, ch. 707, § 8; July 8, 1963, Pub. L. 88-60, § 1, 77 Stat. 77; Oct. 20, 1967, Pub. L. 90-108, § 1(c), 81 Stat. 277.)

AMENDMENTS

1967—Section 1(c), Pub. L. 90-108, amended section to read as above set out. For provisions of section prior to amendment see main volume of the code.

REFERENCE IN TEXT

This "Act" referred to in text has reference to sections 9-118 to 9-126, 9-127 to 9-132.

Prosecution of prior violations not affected by Oct. 20, 1967 amendment. Applicability of Pub. L. 90-108 to violations occurring after Oct. 20, 1967.

Pub. L. 90-108, section 3 provided as follows:

"Prosecutions for violations of sections 9-118 to 9-126, 9-127 to 9-132 and of section 22-3111, occurring prior to the enactment of these amendments [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall not be affected by these amendments or abated by reason thereof. The provisions of amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111 shall be applicable to violations occurring after its enactment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-126. Policing of Capitol Buildings and Grounds—Powers of Capitol Police—Arrests by Metropolitan Police.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-126a. Detail of personnel from Metropolitan Police to Capitol Police Board—Duties and status of detailed personnel.

The Commissioners of the District of Columbia are authorized and directed to make such details [detail of personnel from Metropolitan Police Force to Capitol Police Board] upon the request of the Board. Personnel so detailed shall, during the period of such detail, serve under the direction and instructions of the Board and are authorized to exercise the same authority as members of such Metropolitan Police and members of the Capitol Police and to perform such other duties as may be assigned by the Board. Reimbursement for salaries and other expenses of such detail personnel shall be made to the

government of the District of Columbia, and any sums so reimbursed shall be credited to the appropriation or appropriations from which such salaries and expenses are payable and shall be available for all the purposes thereof: *Provided*, That any person detailed under the authority of this paragraph or under similar authority in the Legislative Branch Appropriation Act, 1942, and the Second Deficiency Appropriation Act, 1940, from the Metropolitan Police of the District of Columbia shall be deemed a member of such Metropolitan Police during the period or periods of any such detail for all purposes of rank, pay, allowances, privileges, and benefits to the same extent as though such detail had not been made, and at the termination thereof any such person who was a member of such police on July 1, 1940, shall have a status with respect to rank, pay, allowances, privileges, and benefits which is not less than the status of such person in such police at the end of such detail. (July 28, 1967, Pub. L. 90-57, § 101, 81 Stat. 134.)

REFERENCES IN TEXT

The Second Deficiency Appropriation Act, 1940 and the Legislative Branch Appropriation Act, 1942 are set out in 54 Stat. 629 and 55 Stat. 456, respectively.

SIMILAR PROVISIONS

Provisions similar to those in this section are contained in the following legislative appropriation acts and in a number of earlier appropriation acts:

1970—Dec. 12, 1969, Pub. L. 91-145, § 101, 83 Stat. 145.

1969—July 23, 1968, Pub. L. 90-417, § 101, 82 Stat. 406.

CODIFICATION

The provisions of this section were taken from the Legislative Appropriation Act for 1968 and are contained in Pub. L. 90-57, 81 Stat. 134, under the heading "Capitol Police Board". The portions in brackets were inserted by the codifiers for the sake of clarity.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 9-127 to 9-130.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 9-118b.

§ 9-131. Traffic regulations by Capitol Police Board—Penalties—Prosecutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-132. Definitions.

As used in this Act—

(1) The term "Capitol Buildings" means the United States Capitol, the Senate and House Office

Buildings and garages, the Capitol Power Plant, all subways and enclosed passages connecting two or more of such structures, and the real property underlying and enclosed by any such structure.

(2) The term "firearm" shall have the same meaning as when used in section 1(3) of the Federal Firearms Act (52 Stat. 1252, as amended; 15 U.S.C. 901(3)).

(3) The term "dangerous weapon" includes all articles enumerated in section 14(a) of the Act of July 8, 1932 (47 Stat. 654, as amended; D.C. Code 22-3214(a)) and also any device designed to expel or hurl a projectile capable of causing injury to persons or property, daggers, dirks, stilettos, and knives having blades over three inches in length.

(4) The term "explosive" shall have the same meaning as when used in section 1(1) of the Act of October 6, 1917 (40 Stat. 385, as amended; 50 U.S.C. 121).

(5) The term "act of physical violence" means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property. (July 31, 1946, 60 Stat. 721, ch. 707, § 16(a); Oct. 20, 1967, Pub. L. 90-108, § 1(d), 81 Stat. 277.)

REFERENCE IN TEXT

This "Act" referred to in text is set out in sections 9-118 to 9-126, 9-127 to 9-132.

AMENDMENTS

1967—Section 1(d), Pub. L. 90-108, amended section to read as above set out. For provisions of section prior to this amendment see main volume of the Code.

Prosecution of prior violations not affected by Oct. 20, 1967 amendment. Applicability of Pub. L. 90-108 to violations occurring after Oct. 20, 1967.

Pub. L. 90-108, section 3 provided as follows:

"Prosecutions for violations of sections 9-118 to 9-126, 9-127 to 9-132 and of section 22-3111 occurring prior to the enactment of these amendments [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall not be affected by these amendments or abated by reason thereof. The provisions of amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111 shall be applicable to violations occurring after its enactment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-118b.

§ 9-133. District of Columbia buildings—Control of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-134. Designation of employees to protect life and property outside the District—Powers of arrest—Weapons and uniforms.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(188 and 189) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (b) relating to fixing penalties of bonds of employees, and prescribing by regulation the uniform and identification badge to be worn by individuals, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-135. Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(190) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-137. Acceptance of collateral for appearance before United States Commissioner—Deposit of collateral.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-138. Agreements with States—Charges for services.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-139. Tunnel, location of under Capitol and Botanic Garden grounds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-140. Approval of Architect of Capitol required—Prescription of conditions by him—Commissioners authorized to use certain areas for tunnel.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-141. Right, title and interest to grounds used for tunnel to remain in the United States—Jurisdiction and responsibility for tunnel.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-144. Architect authorized to convey to Commissioners of the District of Columbia certain grounds for construction of Innerloop Freeway System—Jurisdiction over grounds conveyed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-145. Commissioners authorized to use certain area bounded by Fourth Street, Pennsylvania Avenue, Third Street, and North Mall Drive Northwest, for tunnel—Conditions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2.—CONSTRUCTION OF PUBLIC BUILDINGS

Sec.

9-220. Construction program for public needs in education, health, welfare, public safety, recreation and other fields authorized—Financing conditions—Loans to be advanced to Commissioners—Rate of interest—Repayment of loans—Definitions.

§ 9-201. Municipal center—Establishment.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(191) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section as provided in par. 191, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establish-

ing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-202. Municipal center—Rental.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-204. Public buildings—Loans for construction authorized—Projects enumerated—Location determined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-206. Public buildings—Reimbursement, proportion of tax receipts to be credited to reimbursement fund—Anticipating payments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-207. Public buildings—Reports to be submitted to Congress.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-208. May borrow money from United States for public works—Approval of President—Certain projects authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-209. Purposes for which funds may be used.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-210. Repayment of funds.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-211. Estimates and report to Congress.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-212. Limitations on borrowing power.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-213. Interest on funds borrowed from Public Works Administration.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-215. Authorized to borrow additional funds for public works—Approval of President—Certain project specified.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-216. Purposes for which funds may be used.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-217. Repayment — Interest — Included in annual budget.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-218. Estimates and report to Congress.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-219. Supervision and approval of plans and specifications.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of the Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-220. Construction program for public needs in education, health, welfare, public safety, recreation and other fields authorized—Financing conditions—Loans to be advanced to Commissioners—Rate of interest—Repayment of loans—Definitions.

* * * *

(b) (1) To assist in financing the cost of constructing facilities required for activities financed by the general fund of the District, the Commissioners are hereby authorized to accept loans for the District from the United States Treasury, and the Secretary

of the Treasury is hereby authorized to lend to the Commissioners such sums as may hereafter be appropriated for such purpose, except that no loan made under this subsection after June 30, 1967, shall cause the amount which is required to be paid in any fiscal year out of the general fund of the District as principal and interest on the aggregate indebtedness of the District to exceed—

(A) in the case of an amount required to be paid in a fiscal year ending in 1968, 1969, or 1970, 6 per centum of the general revenue of the District which the Commissioners estimate will be credited to the general fund of the District during such fiscal year; or

(B) in the case of an amount required to be paid in a fiscal year ending after June 30, 1970, 6 per centum of the general revenue of the District credited to the general fund of the District for the fiscal year ending June 30, 1970.

(2) For purposes of paragraph (1) of this subsection, the term "general revenue of the District" means the sum of—

(A) the tax revenues of the District, including but not limited to the revenues (including penalties and interest) derived from the following taxes: (i) taxes imposed on real and tangible personal property, (ii) sales and gross receipts taxes, (iii) taxes on the incomes of individuals, corporations, and unincorporated businesses, (iv) real estate deed recordation taxes, and (v) inheritance and estate taxes;

(B) proceeds from the motor vehicle registration fees collected under section 3 of title IV of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 40-103); and

(C) the amount of the appropriation authorized by section 1 of article VI of the District of Columbia Revenue Act of 1947.

(3) The appropriation of any loan made under this subsection shall not be construed to alter or to eliminate the procedures for consultation, advice, and recommendation provided in the National Capital Planning Act of 1952 (D.C. Code, sec. 1-1001 et seq.). \$216,500,000 of the principal amount of the loans authorized to be made to the Commissioner under this subsection shall be utilized to make the contributions authorized by section 4 of the National Capital Transportation Act of 1969. To such extent, not exceeding \$166,500,000, as may be necessary for this purpose, the District of Columbia may exceed the limitation on aggregate indebtedness established pursuant to this subsection. \$40,000,000 of the principal amount of such loans shall be utilized to carry out the purposes of the District of Columbia Public Education Act (Public Law 89-791).

(4) Any loan made under this subsection shall be in addition to any other loans heretofore or hereafter made to the Commissioners for any other purpose, and when advanced shall be deposited in the Treasury of the United States to the credit of the general fund of the District.

* * * * *

(f) Repealed. Nov. 3, 1967, Pub. L. 90-120, Title II, § 202. (As amended Nov. 3, 1967, Pub. L. 90-120, title II, § 201, 81 Stat. 339; Dec. 9, 1969, Pub. L. 91-143, § 4(b), 83 Stat. 321.)

REFERENCES IN TEXT

Section 4 of the National Capital Transportation Act of 1969 is set out as section 1-1443 and subsection (b) thereof as an amendment of section 9-220 subsection (b) paragraph (3).

Section 1 of article VI of the District of Columbia Revenue Act of 1947, referred to in subsection (b) is set out as section 47-2501a.

The National Capital Planning Act of 1952, referred to in subsection (b), is classified to sections 1-1001 to 1-1013.

The National Capital Transportation Act of 1965 referred to in subsection (b) is set out as sections 1-1421 to 1-1426 and as amendments of section 1-1404.

The District of Columbia Public Education Act, is set out as sections 29-420, 31-1601 to 31-1606, 31-1621 to 31-1625 and as amendments of sections 29-415 to 29-418.

AMENDMENTS

1969—Subsection (b) of section 4, act Dec. 9, 1969, Pub. L. 91-143, struck out of subsection (b), par. 3 the following:

"\$50,000,000 of the principal amount of the loans authorized to be made to the Commissioners under this subsection shall be utilized to carry out the purposes of the National Capital Transportation Act of 1965 (D.C. Code, secs. 1-1404, 1-1421—1-1426); and" and inserted in lieu thereof the following:

"\$216,500,000 of the principal amount of the loans authorized to be made to the Commissioner under this subsection shall be utilized to make the contributions authorized by section 4 of the National Capital Transportation Act of 1969. To such extent, not exceeding \$166,500,000, as may be necessary for this purpose, the District of Columbia may exceed the limitation on aggregate indebtedness established pursuant to this subsection."

1967—Section 201, Title II, Act Nov. 3, 1967, Pub. L. 90-120 amended subsection (b) to read as above set out. For provisions of this subsection prior to this amendment see 1967 edition of the code.

PARTIAL REPEAL

Section 202, Title II, Act Nov. 3, 1967, Pub. L. 90-120 repealed subsection (f). This subsection provided: "No loans shall be advanced pursuant to this section after June 30, 1973."

SHORT TITLE

Section 1, Act Nov. 3, 1967, Pub. L. 90-120 provided: "That this Act [amending section 47-2501a, subsection 9-220(b), repealing subsection 9-220(f) and enacting section 1-320] may be cited as the 'District of Columbia Federal Payment Authorization and Borrowing Authority Act of 1967'."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-1442, 31-1606.

Chapter 3.—SALE OF PUBLIC LANDS

§ 9-301. Commissioners authorized to sell real estate.

SALE, LEASE OR TRANSFER OF CERTAIN UNITED STATES PROPERTY IN THE DISTRICT TO ORGANIZATION OF AMERICAN STATES, FOREIGN GOVERNMENTS AND ORGANIZATIONS

Act, Oct. 8, 1968, Pub. L. 90-553, provided:

"That in order to facilitate the conduct of foreign relations by the Department of State in Washington, District of Columbia, through the creation of a more propitious atmosphere for the establishment of foreign government and international organization offices and other facilities, the Secretary of State is authorized to sell or lease to foreign governments and international organizations

property owned by the United States in the Northwest section of the District of Columbia bounded by Connecticut Avenue, Van Ness Street, Reno Road, and Tilden Street, upon such terms and conditions as he may prescribe. Every lease, contract of sale, deed, and other document of transfer shall provide (a) that the foreign government shall devote the property transferred to use for legation purposes, or (b) that the international organization shall devote the property transferred to its official uses.

"SEC. 2. (a) The Secretary of State is hereby authorized to transfer or convey to the Organization of American States, without monetary consideration, all right, title, and interest to a parcel of land not to exceed eight acres, to be selected by the Secretary of State, within the area described in section 1 of this Act. The deed conveying such property shall provide that the Organization of American States shall use the property solely as a site for a headquarters building and related improvements, and shall contain such other terms and conditions as he may prescribe.

"(b) The conveyance authorized by section 2(a) of this Act shall not be made until the Organization of American States has agreed that it will transfer or convey, without monetary consideration, all right, title, and interest of the Organization of American States in the building and other improvements on the property known as lot 802 in square 147 in the District of Columbia to the United States as soon as the site referred to in section 2(a) is developed for use as a headquarters. The agreement provided for in this subsection shall be in such form as may be satisfactory to the Secretary of State.

"(c) If so requested by the Organization of American States, and with funds provided in advance by the Organization of American States, the Administrator of General Services is hereby authorized to design, construct, and equip a headquarters building for the Organization of American States on the property conveyed to it pursuant to section 2(a) of this Act.

"SEC. 3. The Secretary of State is hereby authorized to transfer or convey to the Organization of American States, without monetary consideration, all right, title, and interest of the United States in and to the property known as lot 800 in square south 173 in the District of Columbia and the buildings and other improvements on such property for use by the Organization of American States.

"SEC. 4. The Act of June 20, 1938 (D.C. Code, 1967 ed., secs. 5-413 or 5-428) shall not apply to buildings constructed on property transferred or conveyed pursuant to section 1, 2(a), or 3 of this Act: *Provided*, That each transferee or grantee of property so transferred or conveyed shall comply with all other applicable District of Columbia codes and regulations relating to building construction, equipment, and maintenance. Plans showing the location, height, bulk, number of stories, and size of, and the provisions for open space and offstreet parking in and around, such buildings shall be approved by the National Capital Planning Commission, and plans showing the height and appearance, color, and texture of the materials of exterior construction of such buildings shall be approved by the Commission of Fine Arts prior to the construction thereof.

"SEC. 5. The construction, reconstruction, relocation, and rebuilding of (a) public streets and sidewalks, (b) public sewers and their appurtenances, (c) water mains, fire hydrants, and other parts of the public water supply and distribution system, and (d) the fire alarm system, which are within the area described in section 1 of this Act and which are occasioned in carrying out the provisions of this Act, shall be provided by the Secretary of State, in coordination with the Administrator of General Services and the government of the District of Columbia.

"SEC. 6. The costs of carrying out the purposes of section 5 of this Act shall be funded from the proceeds of the sale or lease of property to foreign governments and international organizations as provided for in the first section of this Act. All proceeds received from such sales or leases shall, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484) or any other law, be paid into a special account with the Treasurer of the United States, such account to be administered by the Secretary of State for the purposes set out in section 5 of this Act. All sums remaining in such special account

after completion of the projects authorized in section 5 shall be covered into the Treasury as miscellaneous receipts."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(192) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to making the finding that real estate is no longer required for a public purpose, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-302. Expenses of sales of real estate.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-303. Commissioners to execute deeds to sell real estate.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 4.—EXCHANGE OF DISTRICT-OWNED LAND

§ 9-401. Commissioners empowered to effect exchange.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(193) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 9-402. Publication of intended exchange.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-403. Authorization for execution or acceptance of proper deed of conveyance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 9-404. Authority to pay or receive amounts as part of consideration for exchange.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—REPAIRS AND IMPROVEMENTS

§ 9-501. Repairs and improvements—Working fund.

CONTINUATION OF 1960 ACT

Section 15 of the District of Columbia Appropriations Act of Nov. 13, 1967, Pub. L. 90-134, 81 Stat. 441, provided in part:

"Except as otherwise provided herein, limitations and legislative provisions contained in the District of Columbia Appropriation Act, 1961, shall be continued for the fiscal year 1968." Similar provisions are contained in the following appropriation act:

1970—Dec. 24, 1969, Pub. L. 91-155, § 15, 83 Stat. 433.

1969—Aug. 10, 1968, Pub. L. 90-473, § 15, 82 Stat. 700.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 10.—WEIGHTS, MEASURES, AND MARKETS

Chapter 1.—WEIGHTS, MEASURES, AND MARKETS

§ 10-101. Department of Weights, Measures, and Markets created—Director—Assistants and employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 10-102. Director to give bond and take oath.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 10-103. Director to have exclusive powers—Weighing and measuring devices to be examined—Condemnation of devices not conforming to standards—Unapproved weighing and measuring devices not to be possessed or used—Director not required to approve devices belonging to United States.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(194) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in relation to prescribing the manner of approving and sealing, stamping, or marking devices or appliances, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-117. Packages of food to be marked with weight, measure, or count—Commissioners may authorize variation, tolerances, and exemptions as to small packages.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(195) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this sec-

tion to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-118. Cord of wood—Standard—Commissioners to fix standard load of certain split wood.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(196) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-127. Commissioners may establish tolerances and specifications.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(197) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-128. Weighmasters—Public scales—Fees.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(198) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to granting of licenses and fixing fees, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-130. Enactment and enforcement of rules and regulations—Supervision of produce and other markets—Investigations and reports.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(199) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section regarding regulations for the control, regulation, and supervision of markets, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-135. Jurisdiction over fish wharf and market—Leases, rentals, fees—Regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(200) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section regarding regulations for the control, regulation, and operation of the municipal fish wharf and market, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 10-137. Farmers' produce market—Regulations—Charges.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(201) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see setcion 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

PART II

JUDICIARY AND JUDICIAL PROCEDURE

TITLE 11. ORGANIZATION AND JURISDICTION OF THE COURTS.

TITLE 12. RIGHT TO REMEDY.

TITLE 13. PROCEDURE GENERALLY.

TITLE 14. PROOF.

TITLE 15. JUDGMENTS AND EXECUTIONS—FEES AND COSTS.

TITLE 16. PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS.

TITLE 17. REVIEW.

TITLE 11.—ORGANIZATION AND JURISDICTION OF THE COURTS

Chapter 3.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

SUBCHAPTER II.—JURISDICTION

§ 11-321. Appellate jurisdiction

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-1510 and 17-104.

NOTES TO DECISIONS

Basis for review

Although a number of individuals will be affected by a decision of District of Columbia Court of Appeals that of itself is not enough to require United States Court of Appeals to exercise its discretion and review the decision; rather, the nature of the question presented and the soundness of the decision are the proper considerations. *N. Fields v. District of Columbia* (1968, 404 F. 2d 1323, 131 U.S. App. D.C. 347).

District of Columbia Court of Appeals' decision adjudging that petitioner, an optician, had unlawfully practiced optometry without a license by his unsupervised fitting of contact lenses was proper and United States Court of Appeals would not in its discretion review such decision. *Id.*

United States Court of Appeals is not required to review District of Columbia Court of Appeals decision when what is involved is interpretation of a local statute, regulation, or ordinance; the interpretation given is within the zone of what is reasonable; the prosecution is for an offense *malum prohibitum* that is brought by the District of Columbia and not by the United States; and the case does not involve overtones of fundamental rights or substantial allegations of executive action as *ultra vires* or overreaching. *Id.*

Pre-trial production of grand jury testimony

District of Columbia Court of Appeals had authority to review a refusal by Court of General Sessions to certify that production of grand jury testimony would be appropriate and the United States Court of Appeals for the District of Columbia has jurisdiction to review a refusal by United States District Court for the District of Columbia to order production of grand jury testimony after receiving a certification from the Court of General Sessions. *W. H. Gibson v. United States* (1968, 403 F. 2d 166, 131 U.S. App. D.C. 143).

After a grand jury returned a no true bill and prosecutions were initiated in the Court of General Sessions for the District of Columbia by informations, defendant seeking pretrial production of grand jury testimony by complainant and other witnesses government planned to call at trial should first apply for a request or certification by Court of General Sessions before seeking to procure order from United States District Court for production of grand jury testimony. *Id.*

Review of judgments of Small Claims Court

That judgments rendered in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions are for small sums should not bar appellate review when plain legal error has been committed. *A. Willis v. Retail Adjustment Bureau, Inc. etc.* (1967, 384 F. 2d 312, 127 U.S. App. D.C. 360).

Review of order denying leave to appeal

The United States Court of Appeals for the District of Columbia Circuit has jurisdiction to review the action of the District of Columbia Court of Appeals in refusing to allow an appeal to that court from judgment of Small Claims and Conciliation Branch of District of Columbia Court of General Sessions for unpaid rent, in view of the apparent error in the judgment for rent. *A. Willis v. Retail Adjustment Bureau, Inc. etc.* (1967, 384 F. 2d 312, 127 U.S. App. D.C. 360).

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§ 11-341. Distribution of reports; sale

(a) The reporter of the United States Court of Appeals for the District of Columbia Circuit shall furnish and deliver one copy of each volume of the reports of the opinions of the court, immediately after publication, to each judge of the following courts in the District:

- (1) The United States Court of Appeals;
- (2) The United States District Court;
- (3) The District of Columbia Court of Appeals;
- (4) The Court of General Sessions;
- (5) The Juvenile Court; and
- (6) The Tax Court of the United States.

and the copies so received by each judge shall, upon his death, resignation, retirement, or removal from office, be delivered to his successor.

(b) The court shall approve the sale price for the reports of its opinions at not more than \$12 per volume. (Dec. 23, 1963, 77 Stat. 479, Pub. L. 88-241, § 1, eff. Jan. 1, 1964; July 5, 1968, Pub. L. 90-380, § 1, 82 Stat. 291.)

CODIFICATION

Subsection (b) of this section was directly amended by Pub. L. 90-380, on July 5, 1968, increasing the sale price for the reports of the opinions of the court from \$6.50 to \$12 per volume. However, section 403 of Pub. L. 90-470, act of Aug. 9, 1968, and section 403 of Pub. L. 91-153, repeat a provision which has been included in a

number of earlier Judiciary Appropriation Acts, again fixing the price of the reports of the United States Court of Appeals at \$6.50 per volume.

AMENDMENT

1968—Act July 5, 1968, Pub. L. 90-380, amended subsection (b) by increasing the price "at not more than \$12 per volume."

SIMILAR PROVISIONS

Provisions similar to those of subsection (b) of this section prior to its amendment by act of July 5, 1968, Pub. L. 90-380 are contained in the following Judiciary Appropriation Act:

1970—Dec. 24, 1969, Pub. L. 91-153, § 403, 83 Stat. 421.

1969—Aug. 9, 1968, Pub. L. 90-470, Title IV, § 403, 82 Stat. 686.

1968—Nov. 8, 1967, Pub. L. 90-133, Title IV, § 403, 81 Stat. 133.

Chapter 5.—UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

SUBCHAPTER II.—JURISDICTION

§ 11-521. Civil and criminal jurisdiction

NOTES TO DECISIONS

Equality of district and General Session Courts

Federal district court is not "superior" to District of Columbia Court of General Sessions. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Federal jurisdiction

Plaintiff, who brought suit in the United States District Court for the District of Columbia, alleged in his amended complaint that the Court had jurisdiction under the District of Columbia Code, and did not allege jurisdiction under any federal statute, it was nevertheless appropriate for the court to inquire whether there was such federal jurisdiction. *M. W. Rice v. Disabled American Veterans* (1968, 295 F. Supp. 131).

Local jurisdiction

Where jurisdiction is alleged under the District Code all aspects of local jurisdiction, including venue, are governed by local statute and the federal venue statute has no application. *M. W. Rice v. Disabled American Veterans* (1968, 295 F. Supp. 131).

All aspects of local jurisdiction are governed by local statute. *S. Vogel and S. & H. Vogel v. Tenneco Oil Company etc.* (1967, 276 F. Supp. 1008).

Federal venue statute has no application where jurisdiction is alleged under provisions of District of Columbia Code. *Id.*

Allegation of complaint that corporation was transacting business in District of Columbia and admission of corporation that it was licensed to do business in District of Columbia were sufficient to establish court's local jurisdiction. *Id.*

Pre-trial production of grand jury testimony

District of Columbia Court of Appeals had authority to review a refusal by Court of General Sessions to certify that production of grand jury testimony would be appropriate and the United States Court of Appeals for the District of Columbia has jurisdiction to review a refusal by United States District Court for the District of Columbia to order production of grand jury testimony after receiving a certification from the Court of General Sessions. *W. H. Gibson v. United States* (1968, 403 F. 2d 166, 131 U.S. App. D.C. 143).

After a grand jury returned a no true bill and prosecutions were initiated in the Court of General Sessions for the District of Columbia by informations, defendant seeking pretrial production of grand jury testimony by complainant and other witnesses government planned to call at trial should first apply for a request or certification by Court of General Sessions before seeking to procure order from United States District Court for production of grand jury testimony. *Id.*

Ruling of district court as binding on Court of General Sessions

United States district court decision, in prosecution for narcotics violation, which suppressed certain evidence

as products of illegal search and seizure was not binding on District of Columbia Court of General Sessions, where defendant was charged with possession of prohibited weapon and possession of numbers slips, and which had held previously to United States District Court ruling that certain evidence, which was seized under same circumstances as evidence in federal prosecution, was admissible. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Venue

In this case the court found that defendant college accreditation association had contacts with District of Columbia sufficient in nature and degree, under Clayton Act and under statutes relating to venue of suits against corporations, to permit laying venue in District of Columbia for action under antitrust laws and for injunction against excluding plaintiff's college from membership, where the defendant accredited a number of schools in District and regularly visited them and had other regular communications and visits. *Marjorie Webster Junior College Inc. v. Middle States Association of Colleges and Secondary Schools, Inc.* (1969, 302 F. Supp. 459).

Inasmuch as the relevant federal venue statute provides that an action may be transferred only to a district "where it might have been brought", and where action brought under the local jurisdictional statute of the District of Columbia could not have been brought in any federal district court other than the one in the District of Columbia, there was no federal district court in the country to which such action might be transferred under the federal venue statute. *M. W. Rice v. Disabled American Veterans* (1968, 295 F. Supp. 131).

§ 11-522. Probate and guardianship jurisdiction

NOTES TO DECISIONS

Title to property

There is no restriction upon district court, sitting in probate, which limits its power to adjudicate right to possession of personalty. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

§ 11-523. Concurrent jurisdiction of desertion and non-support cases

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

Chapter 7.—DISTRICT OF COLUMBIA COURT OF APPEALS

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

Sec.

11-705. Assignment of judges; divisions; hearings.

AMENDMENT

1967—Item 11-705 was added to the table of sections by Act Dec. 8, 1967, Pub. L. 90-178, sec. 1(3) (B).

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

§ 11-702. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal

(a) The District of Columbia Court of Appeals shall consist of a chief judge and five associate judges appointed by the President of the United States, by and with the advice and consent of the Senate.

(b), (c) * * *

(d) The chief judge shall receive an annual salary of \$29,000, and each associate judge shall receive an annual salary of \$28,500.

(e), (f) * * *

(As amended Dec. 8, 1967, Pub. L. 90-178, § 1(1), 81 Stat. 544; Oct. 17, 1968, Pub. L. 90-579, § 2, 82 Stat. 1119.)

AMENDMENTS

1968—Section 2, Pub. L. 90-579, amended subsection (d) by increasing the salary of the chief judge from \$25,000 to \$29,000 and each associate judge from \$24,500 to \$28,500.

1967—Section 1(1), Act Dec. 8, 1967, Pub. L. 90-178, amended subsection (a) by striking out “two” and inserting in lieu thereof “five”, thus increasing the number of associate judges to five.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 4, act Oct. 17, 1968, Pub. L. 90-579, provided, “this Act [Amendments of sections 11-702(d); 11-902 (a) and (d) and 47-2402] shall take effect as of Oct. 1, 1968.”

§ 11-703. Absence, disability, or disqualification of judges; vacancies; quorum

* * * * *

(c) Two judges shall constitute a quorum of a division of the court, and four judges shall constitute a quorum of the court sitting in banc. (As amended Dec. 8, 1967, Pub. L. 90-178, § 1(2), 81 Stat. 544.)

AMENDMENT

1967—Section 1(2), Act Dec. 8, 1967, Pub. L. 90-178, amended subsection (c) to read as above set out. Before this amendment the subsection read: “(c) Two judges of the court constitute a quorum.”

§ 11-705. Assignment of judges; divisions; hearings

(a) Judges of the court shall sit on the court and its divisions in such order and at such times as the court directs.

(b) (1) Cases and controversies shall be heard and determined by divisions of the court unless a hearing or rehearing before the court in banc is ordered. Each division of the court shall consist of three judges.

(2) A hearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a hearing shall consist of the judges of the court in regular active service.

(3) A rehearing before the court in banc may be ordered by a majority of the judges of the court in regular active service. The court in banc for a rehearing shall consist of the judges of the court in regular active service, except that a retired judge may sit as a judge of the court in banc in the rehearing of a case or controversy if he sat on the court or a division of the court at the original hearing thereof. (Dec. 8, 1967, Pub. L. 90-178, § 1(3) (A), 81 Stat. 545.)

AMENDMENT

1967—Section was added by section 1(3) (A) of Act Dec. 8, 1967, Pub. L. 90-178.

SUBCHAPTER III.—JURISDICTION

§ 11-741. Orders and judgments of Court of General Sessions and Juvenile Court

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-767) is referred to in section 30-306.

NOTES TO DECISIONS

Appealable orders

An order which denies a motion to quash an attachment is not final and hence not generally appealable, unless possession of property is changed or affected. *G. F. Ludington et ano. v. Bogdonoff* (D.C. App. 1969, 256 A. 2d 921).

In this case possession of property was not affected by the denial of intervenors’ motion to quash attachment, and appeal from order denying motion was premature and District of Columbia Court of Appeals was without jurisdiction of appeal. *Id.*

Juvenile Court appeals

Determinations of the Juvenile Court are not immune from overview as Congress has provided for appeals to the District of Columbia Court of Appeals. *E. Creek, Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Review of judgments of Small Claims Court

That judgments rendered in the Small Claims and Conciliation Branch of the District of Columbia Court of General Sessions are for small sums should not bar appellate review when plain legal error has been committed. *A. Willis v. Retail Adjustment Bureau, Inc., etc.* (1967, 384 F. 2d 312, 127 U.S. App. D.C. 360).

Review of order denying leave to appeal

The United States Court of Appeals for the District of Columbia Circuit has jurisdiction to review the action of the District of Columbia Court of Appeals in refusing to allow an appeal to that court from judgment of Small Claims and Conciliation Branch of District of Columbia Court of General Sessions for unpaid rent, in view of the apparent error in the judgment for rent. *A. Willis v. Retail Adjustment Bureau, Inc., etc.* (1967, 384 F. 2d 312, 127 U.S. App. D.C. 360).

§ 11-742. Administrative orders and decisions

(a) * * *

* * * * *

(9) final decisions of the Real Estate Commission of the District of Columbia denying an application for license or suspending or revoking a license pursuant to sections 45-1403 to 45-1418;

(10) final orders of the Public Service Commission of the District of Columbia under the provisions of the District of Columbia Securities Act;

(11) any agency action taken by the Commissioner of the District of Columbia or the District of Columbia Council under the District of Columbia Air Pollution Control Act.

For purposes of paragraph (11) of this subsection, the term “agency action” shall have the same meaning that is given that term in section 551(13) of title 5 of the United States Code; and

(12) final orders and decisions of the Commissioner of the District of Columbia under the provisions of the District of Columbia Insurance Placement Act.

(b) * * *

(c) * * *

(As amended, July 30, 1968, Pub. L. 90-440, § 5, 82 Stat. 460; Aug. 1, 1968, Pub. L. 90-448, § 1213, title XI, 82 Stat. 572.)

REFERENCES IN TEXT

The District of Columbia Air Pollution Control Act referred to in subsection (a) (11) is the act of July 30, 1968, Pub. L. 440, which added subsection (a) (11), enacted sections 6-811 to 6-813 and repealed sections 6-801 to 6-804. The District of Columbia Insurance Placement Act referred to in subsection (a) (12) is the act of Aug. 1, 1968, Pub. L. 90-440, which added subsection (a) (12) and enacted title 35, ch. 17.

AMENDMENT

1968—Section 5, act July 30, 1968, Pub. L. 90-440, amended subsection (a) by striking out “and” at the end of par. 9, by striking out the period at the end of par. 10 and inserting in lieu “; and” and adding par. (11) and the sentence following.

Section 1213, act Aug. 1, 1968, Pub. L. 90-448, added par. (12) to subsection (a).

CROSS REFERENCE

Other provisions for appeals from administrative orders and decisions, see sections 1-1508, 1-1510.

NOTES TO DECISIONS

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor, etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the administrative action of suspending motor vehicle operator's permit of 17-year-old driver. *Id.*

Evidence—Admissibility

Testimony given in administrative suspension hearing of arresting officer that he and juvenile officer were responsible for seizing juvenile driver's permit and turning it over to Department of Motor Vehicles along with facts relative to the incident, was not product of a disclosure or use of information concerning a juvenile before the court, directly or indirectly derived from record, papers, files, or communications of the court, or acquired in the course of official duties. *K. P. Murphy, a minor, etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

Testimony of arresting officer, in administrative suspension hearing indicating, in response to permit control officer's question, that driver refused to take urine test was not of sufficient magnitude to fatally infect the fairness of the hearing in view of testimony as to odoriferous condition of driver's automobile and driver, his unsteady condition, and his unchallenged admission that he had earlier consumed substantial quantity of beer. *Id.*

— Sufficiency

There was substantial evidence to support the order of permit control officer of the Department of Motor Vehicles suspending motor vehicle operator's permit for driving motor vehicle in reckless manner while under influence of intoxicating liquors. *K. P. Murphy, a minor, etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

Chapter 9.—DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

§ 11-901. Continuation of court; court of record; divisions; seal

CODIFICATION

Section 1869(f) of title 28, U.S. Code, which defines "district court of the United States", "district court" and "court" includes within those definitions the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia, for the purposes of sections 1861, 1862, 1966 (c) and (d) and 1867 of title 28 U.S. Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-752, 11-753) is referred to in section 30-306.

§ 11-902. Composition; appointment, qualifications, tenure, salaries, and oath of judges; removal

(a) The District of Columbia Court of General Sessions shall consist of a chief judge and twenty-two associate judges appointed by the President of the United States, by and with the advice and consent of the Senate.

(b), (c) * * *

(d) The chief judge shall receive an annual salary of \$28,000, and each associate judge shall receive an annual salary of \$27,500.

(e), (f) * * *

(As amended, Oct. 17, 1968, Pub. L. 90-579, § 1, 82 Stat. 1119.)

AMENDMENTS

1968—Section 1(a) Pub. L. 90-579, amended subsection (a) by increasing the number of associate judges from "twenty" to "twenty-two";

Section 1(b) Pub. L. 90-579, increased the salary of the chief judge to \$28,000 and each associate judge to \$27,500.

EFFECTIVE DATE OF 1968 AMENDMENTS

Section 4, act Oct. 17, 1968, Pub. L. 90-579, provided, "this Act [Amendments of sections 11-902 (a) and (d); 11-702(d) and 47-2402] shall take effect as of Oct. 1, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-752, 11-753) is referred to in section 30-306.

§ 11-907. Meetings and reports

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER II.—COURT OFFICERS AND EMPLOYEES

§ 11-931. Clerk; compensation; general duties

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-713, 11-714) is referred to in sections 45-909, 45-910, 45-914.

§ 11-932. Deputy clerks and other employees; compensation; supervision; process; powers

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-711) is referred to in sections 45-909, 45-910, 45-914.

SUBCHAPTER III.—JURISDICTION

§ 11-961. Civil jurisdiction

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-703, 11-704) is referred to in sections 16-3904, 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Amount claimed

Nunc pro tunc refusal to amend pleading so as to confer jurisdiction upon the court was not improper in view of fact that answer to the complaint set out court's lack of jurisdiction as a separate defense, and case was properly dismissed on jurisdictional ground. *D. Fox v. Shannon & Lucks Company of Washington, Inc.* (D.C. App. 1967, 236 A. 2d 60).

§ 11-962. Transfer of civil actions to Court of General Sessions

NOTES TO DECISIONS

Amendment of pleadings

Granting of leave to amend pleading is a matter within the sound discretion of the trial judge and only an abuse of that discretion is reviewable on appeal. *W. Saddler et ano. v. Safeway Stores Inc.* (D.C. App. 1967, 227 A. 2d 394).

In action by plaintiffs seeking \$5,000 for loss of consortium and \$10,000 for personal injuries sustained when a shelf containing canned goods fell on a plaintiff while she was shopping in defendant's store, refusing to permit plaintiffs to amend their pleading by increasing the ad

damnum clause to \$125,000 on ground that evidence regarding loss of earnings was weak did not constitute abuse of discretion. *Id.*

Authority for certification

Where District of Columbia federal district court, determined that personal injury and damage actions would not justify judgment in excess of \$10,000, it had authority to certify case to Court of General Sessions. *L. Hughes et al. v. Pennsylvania Railroad Company* (1969, 409 F. 2d 460, — U.S. App. D.C. —).

Certification near trial date

Federal district court should regard with skepticism motions to certify, under statute governing transfer of civil actions to District of Columbia Court of General Sessions, when made at or near assigned trial date. *L. Hughes et al. v. Pennsylvania Railroad Company* (1969, 409 F. 2d 460, — U.S. App. D.C. —).

Discretion of district court

Standard for certification pursuant to statute governing transfer of civil action from federal district court to District of Columbia Court of General Sessions contemplates that broad discretion be vested in district court. *L. Hughes et al. v. Pennsylvania Railroad Company* (1969, 409 F. 2d 460, — U.S. App. D.C. —).

Federal district court's discretion in transferring civil action to District of Columbia Court of General Sessions normally will not be disturbed on appeal unless it is arbitrary. *Id.*

Federal district court's discretion to transfer civil action to District of Columbia Court of General Sessions is limited by reviewability for abuse. *Id.*

Reasons for certification

Personal injury and damage actions, certified by federal district court to District of Columbia Court of General Sessions, on day set for commencement of trial, on finding that actions would not justify judgment in excess of \$10,000, without setting forth reasons for certification, would be remanded to district court with directions to proceed with trial. *L. Hughes et al. v. Pennsylvania Railroad Company* (1969, 409 F. 2d 460, — U.S. App. D.C. —).

Federal district court, in certifying civil action to District of Columbia Court of General Sessions pursuant to statute, should explain its decision in memorandum opinion as aid to Court of Appeals in reviewing such rulings. *Id.*

§ 11-963. Criminal jurisdiction; commitment

NOTES TO DECISIONS

Appealability of order where court lacked jurisdiction

The court held that the District of Columbia Court of Appeals lacked jurisdiction under Bail Reform Act to review order of judge of District of Columbia Court of General Sessions modifying conditions of release in felony case and properly dismissed the appeal for lack of jurisdiction and District Court of Appeals was not authorized to vacate order in exercise of its general appellate jurisdiction over Court of General Sessions since the order was entered by judge of latter court sitting as committing magistrate in a case involving charges cognizable solely in United States district court. *L. Salley et ano. v. United States* (1968, 413 F. 2d 364, — U.S. App. D.C. —).

Applicability of Federal Rules of Criminal Procedure

Court rule which makes Federal Rules of Criminal Procedure applicable to proceedings where judges are acting as committing magistrates would be inapplicable if trial court was merely acting as assignment court when counsel was adjudged in contempt. *In the Matter of G. D. Gates* (D.C. App. 1968, 248 A. 2d 671).

Under court rule which make Federal Rules of Criminal Procedure applicable to proceedings where judges of court are acting as committing magistrates, only rules 3, 4, 5 and 40 would be binding on Court of General Sessions when performing its function as commissioner and sitting as committing magistrate. *Id.*

Equality of district and General Session Courts

Federal district court is not "superior" to District of Columbia Court of General Sessions. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Jurisdiction

The District of Columbia Court of General Sessions had jurisdiction to sentence under the Federal Youth Corrections Act even though commitment under act might exceed one year. *A. E. Harvin v. United States* (D.C. App. 1968, 245 A. 2d 307).

Pre-trial production of grand jury testimony

District of Columbia Court of Appeals had authority to review a refusal by Court of General Sessions to certify that production of grand jury testimony would be appropriate and the United States Court of Appeals for the District of Columbia has jurisdiction to review a refusal by United States District Court for the District of Columbia to order production of grand jury testimony after receiving a certification from the Court of General Sessions. *W. H. Gibson v. United States* (1968, 403 F. 2d 166, 131 U.S. App. D.C. 143).

After a grand jury returned a no true bill and prosecutions were initiated in the Court of General Sessions for the District of Columbia by informations, defendant seeking pretrial production of grand jury testimony by complainant and other witnesses government planned to call at trial should first apply for a request or certification by Court of General Sessions before seeking to procure order from United States District Court for production of grand jury testimony. *Id.*

Ruling of district court as binding on Court of General Sessions

United States district court decision, in prosecution for narcotics violation, which suppressed certain evidence as products of illegal search and seizure was not binding on District of Columbia Court of General Sessions, where defendant was charged with possession of prohibited weapon and possession of numbers slips, and which had held previously to United States District Court ruling that certain evidence, which was seized under same circumstances as evidence in federal prosecution, was admissible. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 11-981. Power of judges to issue warrants returnable to Criminal Division; record

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-705) is referred to in sections 45-909, 45-910, 45-914.

§ 11-982. Compelling attendance of witnesses; contempt powers; subpoenas

NOTES TO DECISIONS

Contempt

Court in criminal trial had power to punish defense counsel for contempt for violation of instructions. *In the Matter of A. L. Benton* (D.C. App. 1967, 228 A. 2d 324).

To adjudge counsel guilty of contempt for disobedience of order or direction of trial court, order must be clear and unambiguous. *Id.*

Trial court's instruction to defense counsel not to bring up "any prior criminal record" was fatally ambiguous in that it might or might not proscribe bringing up lack of any prior criminal record and in absence of record indicating willful and knowing violation of instructions in counsel's referring to lack of any prior criminal record, contempt conviction could not stand. *Id.*

Due process

Requirements of due process were complied with where transcript and statement in which judge described his encounter in open court with defense counsel showed that counsel's misconduct was in actual presence of court and set forth facts with sufficient particularity to enable reviewing court to know language of defense counsel which trial court found contemptuous. *In the Matter of G. D. Gates* (D.C. App. 1968, 248 A. 2d 671).

In contempt-in-open-court case, there is no requirement for evidence or assistance of counsel before punishment, and order adjudging defense counsel in criminal proceeding to be in contempt of court was not vitiated by reason of fact that counsel was punished in summary fashion without safeguards normally afforded defendant in criminal prosecution. *Id.*

§ 11-983. Oaths, affirmations, and acknowledgments

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-712, 11-751a, 11-754, 11-754a, 11-755) is referred to in sections 45-909, 45-910, 45-914.

§ 11-984. Receipt and care of deposits for costs, and fees; payment of fines, costs, etc., to clerk; deposit; accounting

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissions, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-710, 11-710a, 11-710c, 11-751a) is referred to in sections 45-909, 45-910, 45-914.

§ 11-985. Audit of accounts

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-710b, 11-751a) is referred to in sections 45-909, 45-910, 45-914.

Chapter 11.—DOMESTIC RELATIONS BRANCH OF COURT OF GENERAL SESSIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 16-1312.

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

§§ 11-1101, 11-1102

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-758, 11-759, 11-760) are referred to in section 30-306.

§ 11-1103. Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-768) is referred to in sections 11-904, 30-306.

SUBCHAPTER II.—OFFICERS AND EMPLOYEES

§§ 11-1121, 11-1122

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-761, 11-764) are referred to in section 30-306.

SUBCHAPTER III.—JURISDICTION

§ 11-1141. Exclusive jurisdiction

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-762, 11-769, 16-416) is referred to in sections 11-961, 30-306.

NOTES TO DECISIONS

Abuse of discretion

In this case the award of custody of the children to wife pending outcome of determination whether husband or allegedly adulterous wife should have custody was not an abuse of discretion. *E. A. McCallum v. D. W. McCallum, Jr.* (D.C. App. 1969, 256 A. 2d 911).

Division of real property, in an action by husband for absolute divorce on ground of voluntary separation, awarding $\frac{5}{8}$ interest to the husband who, after 1962, made majority of payments on house, and $\frac{3}{8}$ interest to the wife, who had arbitrarily appropriated jointly owned personalty, was not an abuse of discretion. *D. B. Stanley v. C. L. Stanley* (D.C. App. 1967, 234 A. 2d 810).

Adjudication of property rights

Domestic relations branch of court of general sessions has exclusive jurisdiction over determinations and adjudications of property rights in actions for annulment of marriages. *A. D. Martin v. L. P. Martin* (D.C. App. 1968, 240 A. 2d 363).

Basis for adjudication of property rights

Specific finding of constructive desertion was unwarranted and unnecessary to determination of an equitable division of jointly owned real property in action by husband for absolute divorce on the ground of voluntary separation, notwithstanding the fact that wife had previously obtained limited divorce on ground of cruelty and allegedly had been forced to move from parties' home because of refusal of husband to do so. *D. B. Stanley v. C. L. Stanley* (D.C. App. 1967, 234 A. 2d 810).

Issue of jointly owned personalty was properly considered, in action by husband for absolute divorce on the ground of voluntary separation, in making a division of real property, notwithstanding the fact that husband, in wife's prior action for limited divorce, failed to question wife's right to personalty taken by her at the time she left parties' home. *Id.*

Construction

Difference between terms "award and apportion" as used in District of Columbia statute relating to court's authority to apportion property in divorce action and terms "determine and adjudicate" as used in statute relating to general jurisdictional grant to Domestic Relations Branch is simply difference between directly and indirectly affecting title to land. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

Constructive trust

In proceeding on counterclaim of defendant veteran who during marriage had been receiving disability benefits from Veterans Administration and who, as result of letter from his wife giving notice of birth of child and seeking dependent's allowance, received increase payment for support of wife and child, court had jurisdiction of defendant's prayer that trial judge decree constructive trust for all moneys and other benefits received by wife based on her purported marriage to defendant and for an accounting. *A. D. Martin v. L. P. Martin* (D.C. App. 1968, 240 A. 2d 363).

Denial of preliminary injunction

Denial of requested preliminary injunction which would have allowed the husband to remain at the family domicile was tantamount to a preliminary determination granting the wife temporary custody of the children pending outcome of custody action. In awarding custody of the children to the wife the court may make reasonable orders under the circumstances allowing the husband visitation rights. *E. A. McCallum v. D. W. McCallum, Jr.* (D.C. App. 1969, 256 A. 2d 911).

Jurisdiction

In a case where the parties were non-residents, but the husband worked in the District and one child was in school here, it was not abuse of discretion for trial court to assume jurisdiction over claim for support under separation agreement. *W. N. McGehee, Jr. v. F. T. Maxfield* (D.C. App. 1969, 256 A. 2d 576).

Former wife's action for specific performance or damages for former husband's alleged failure to abide by terms of separation agreement providing for maintenance and support of wife was within exclusive jurisdiction of Do-

mestic Relations Branch of District of Columbia Court of General Sessions. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

Congress intended that domestic relations matters be consolidated in single forum. *Id.*

Jurisdiction over foreign property

In a divorce action, District of Columbia court could not award and apportion property located in Maryland but it did have jurisdiction to determine and adjudicate rights of parties before it to such property and direct parties to execute such instruments as were necessary to effectuate that adjudication. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. 46).

Maryland law that when parties are validly divorced real property formerly held by them as tenants by entirety, until otherwise apportioned in appropriate Maryland court, is held by them as tenants in common did not preclude District of Columbia court from exercising its authority to determine and adjudicate property rights of parties before it. *Id.*

District of Columbia courts are authorized to adjust and apportion property rights in property held jointly by parties to divorce action and must do so in same proceeding in which divorce decree is entered although their enforcement power as to property located in another state is limited to determination and adjudication of parties' rights. *Id.*

Law of forum

Law of forum governs remedial powers of court to deal with property located in another state. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

Powers

If divorced wife was entitled to relief in her suit for specific performance or damages for former husband's alleged failure to abide by terms of separation agreement providing for maintenance and support of wife, it would be within power of Domestic Relations Branch of District of Columbia Court of General Sessions to grant it, whether it was equitable or legal in nature. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

Transfer to domestic relations branch after appeal

Where appeal was taken from district court's entry of summary judgment for defendant in suit for specific performance or damages based on alleged failure of defendant to abide by terms of separation agreement and Court of Appeals determined that action was within exclusive jurisdiction of Domestic Relations Branch of District of Columbia Court of General Sessions, interests of justice would best be served by remanding case to District Court with directions to vacate its order and transfer action to the Domestic Relations Branch. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

"Wife" defined

Although plaintiff suing for specific performance or damages for defendant's alleged failure to abide by terms of separation agreement was no longer married to defendant, she was a "wife" for purposes of statute providing that Domestic Relations Branch of District of Columbia Court of General Sessions has exclusive jurisdiction of civil action to enforce support of wife. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 11-1161. Powers of Branch

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-763) is referred to in section 30-306.

NOTES TO DECISIONS

Abuse of discretion

In this case the award of custody of the children to wife pending outcome of determination whether husband or allegedly adulterous wife should have custody was not an abuse of discretion. *E. A. McCallum v. D. W. McCallum, Jr.* (D.C. App. 1969, 256 A. 2d 911).

Appointment of guardian ad litem

Court of General Sessions, Domestic Relations Branch, has authority to appoint experienced and disinterested persons to aid in resolving custody disputes in order to enable court to protect interest and welfare of child where court is acting in capacity of parens patriae. *R. Eaton v. J. W. Karr, Guardian Ad Litem* (D.C. App. 1969, 251 A. 2d 640).

Denial of preliminary injunction

Denial of requested preliminary injunction which would have allowed the husband to remain at the family domicile was tantamount to a preliminary determination granting the wife temporary custody of the children pending outcome of custody action. In awarding custody of the children to the wife the court may make reasonable orders under the circumstances allowing the husband visitation rights. *E. A. McCallum v. D. W. McCallum, Jr.* (D.C. App. 1969, 256 A. 2d 911).

Jurisdiction

Former wife's action for specific performance or damages for former husband's alleged failure to abide by terms of separation agreement providing for maintenance and support of wife was within exclusive jurisdiction of Domestic Relations Branch of District of Columbia Court of General Sessions. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

Congress intended that domestic relations matters be consolidated in single forum. *Id.*

Jurisdiction over foreign property

In a divorce action, District of Columbia court could not award and apportion property located in Maryland but it did have jurisdiction to determine and adjudicate rights of parties before it to such property and direct parties to execute such instruments as were necessary to effectuate that adjudication. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

Powers

If divorced wife was entitled to relief in her suit for specific performance or damages for former husband's alleged failure to abide by terms of separation agreement providing for maintenance and support of wife, it would be within power of Domestic Relations Branch of District of Columbia Court of General Sessions to grant it, whether it was equitable or legal in nature. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

Transfer to domestic relations branch after appeal

Where appeal was taken from district court's entry of summary judgment for defendant in suit for specific performance or damages based on alleged failure of defendant to abide by terms of separation agreement and Court of Appeals determined that action was within exclusive jurisdiction of Domestic Relations Branch of District of Columbia Court of General Sessions, interests of justice would best be served by remanding case to District Court with directions to vacate its order and transfer action to the Domestic Relations Branch. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

"Wife" defined

Although plaintiff suing for specific performance or damages for defendant's alleged failure to abide by terms of separation agreement was no longer married to defendant, she was a "wife" for purposes of statute providing that Domestic Relations Branch of District of Columbia Court of General Sessions has exclusive jurisdiction of civil action to enforce support of wife. *F. C. Den v. A. A. J. Den* (1967, 375 F. 2d 328, 126 U.S. App. D.C. 152).

Chapter 13.—SMALL CLAIMS AND CONCILIATION BRANCH OF COURT OF GENERAL SESSIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 16-3901.

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

§ 11-1303. Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-904.

SUBCHAPTER III.—JURISDICTION

§ 11-1341. Exclusive jurisdiction of small claims; limitations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3904.

Chapter 15.—JUVENILE COURT OF THE DISTRICT OF COLUMBIA

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 13-101, 16-2306.

SUBCHAPTER I.—CONTINUATION AND ORGANIZATION

§ 11-1501. Continuation of Court; court of record; seal

CODIFICATION

Section 1869(f) of title 28, U.S. Code, which defines "district court of the United States", "district court" and "court" includes within those definitions the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia, for the purposes of sections 1861, 1862, 1866 (c) and (d) and 1867 of title 28 U.S. Code.

SUBCHAPTER II.—COURT OFFICERS AND EMPLOYEES

§ 11-1525. Other court employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

SUBCHAPTER III.—JURISDICTION

§ 11-1551. Jurisdiction of children and minors; retention

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-522, 11-1554, 11-1583, 16-2302, 16-2308, 16-2314, 16-2316.

NOTES TO DECISIONS

Adequacy of petition

The petition in this case which alleged briefly the facts which brought the juvenile within jurisdiction of the juvenile court, and notified him of the place, time and date of alleged unlawful conduct, the nature of the violation, the names of the alleged co-perpetrators of the assault and the name of the victim, and the name of intake officer who investigated the case, was adequate to apprise the juvenile of the nature and substance of proceeding against him and the juvenile was not prejudiced by any slight disparity between the allegations that he had assaulted victim with dangerous weapon and robbed victim and the proof which established that he had assaulted another who was with the victim. *In the Matter of J. E. Coward* (D.C. App. 1969, 254 A. 2d 730).

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the administrative action of suspending motor vehicle operator's permit of 17-year-old driver. *Id.*

Beyond control

Court deemed it inappropriate to construe "beyond control" section of Juvenile Court Act until it was certain that section was the only basis upon which juvenile court acted. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

Congressional objective

Congressional objective in passing Juvenile Court Act providing that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly possible equivalent to that which should have been given him by his parents, comprehends psychiatric care in appropriate cases. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Construction

Juvenile court legislation rests, in various aspects, on premise that state is acting as *parens patriae*, that it is undertaking in effect to provide for child the kind of environment he should have been receiving at home, and that it is because of this that appropriate officials, while subject to requirement that juvenile proceedings must not be arbitrary or unfair, are permitted to take and retain custody of child without affording him all various procedural rights available to adults suspected of crime. *In E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Due process

Due process of law requires, as the Supreme Court has said that juveniles be given "notice which would be deemed constitutionally adequate in a civil or criminal proceeding." *In the Matter of J. E. Coward* (D.C. App. 1969, 254 A. 2d 730).

The court held, that the juvenile must be made aware of the nature of the allegations to be considered at the hearing to determine whether he is within jurisdiction of juvenile court, and the factual circumstances giving rise to such allegations, and the notice must be sufficiently explicit to enable the juvenile to defend intelligently. *Id.*

In proceeding against juvenile for violation of law, ordinance or regulation, constitutional concept of due process must be observed. *In the Matter of K. L. Wylie* (D.C. App. 1967, 231 A. 2d 81).

Guilt beyond reasonable doubt

Proof of guilt beyond reasonable doubt is unnecessary and improper in juvenile court proceeding. *In the Matter of K. L. Wylie* (D.C. App. 1967, 231 A. 2d 81).

Jurisdiction—Extent of

Juvenile court has original and exclusive jurisdiction in all cases concerning child who has violated law of District of Columbia. *In the Matter of N. M. Ellis* (D.C. App. 1969, 253 A. 2d 789).

Petition—Sufficiency of

Petition in juvenile court which alleged that accused struck victim in eye, then grabbed him and asked him for his money, was subject to interpretation that charge against alleged delinquent was robbery, or attempted robbery, or assault, or all three and was too vague and indefinite to apprise juvenile of charges against him. *In the Matter of K. L. Wylie* (D.C. App. 1967, 231 A. 2d 81).

Rulings to be applied prospectively

Rulings that juvenile charged with offense is entitled to notice of specific issues, specific instructions on such issues, and disapproval of use of verdict of "Involved" applies prospectively only. *In the Matter of K. L. Wylie* (D.C. App. 1967, 231 A. 2d 81).

Special interrogatories

If use of verdict of guilty or not guilty is inadvisable, juvenile court may use special interrogatories in cases involving offenses by juveniles. *In the Matter of K. L. Wylie* (D.C. App. 1967, 231 A. 2d 81).

Sufficiency of allegation

Allegation that a juvenile committed a crime is included in petitions such as the one in the instant case that a minor was within jurisdiction of juvenile court by way of alleging required jurisdictional condition and government is required to prove its allegations only by a preponderance of the evidence. *In the Matter of J. E. Coward* (D.C. App. 1969, 254 A. 2d 730).

The precision required in criminal indictments and conformity of the evidence thereto, is inappropriate in juvenile actions, which are in the nature of civil commitment proceedings. *Id.*

Sufficiency of record

The record amply supports the finding that the minor, who was held to be within jurisdiction of the juvenile court, actively participated in assault on occupants of automobile. *In the Matter of J. E. Coward* (D.C. App. 1969, 254 A. 2d 730).

§ 11-1552. Transfer from other courts**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 16-2316.

NOTES TO DECISIONS**Remand to juvenile court after conviction**

Conviction of minor remanded with instructions that District Court remand to Juvenile Court for hearing de novo and determination on waiver issue, consistent with standards set forth by Supreme Court; should decision of Juvenile Court be against waiver, indictment should be dismissed, but should waiver be found appropriate, District Court should follow prescribed procedure for trial of minor defendant. *J. L. Watkins v. United States* (1966, 373 F. 2d 681, 126 U.S. App. D.C. 21, see also 119 U.S. App. D.C. 409).

§ 11-1553. Waiver of jurisdiction in case of felony and transfer of case**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 16-2308, 16-2316.

NOTES TO DECISIONS**Attorney's duties and functions**

Child's lawyer should search for plan or range of plans which may persuade court that welfare of child and safety of community can be served without waiver. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Counsel desiring not to demand waiver hearing in juvenile court after consultation with client should indicate the consultation by letter to court. *Id.*

Construction

Theory of District of Columbia Juvenile Court Act is rooted in social welfare philosophy rather than the corpus juris. *M. A. Kent, Jr. v. United States* (1968, 401 F. 2d 408, 130 U.S. App. D.C. 343).

District of Columbia Juvenile Court is theoretically engaged in determining needs of child and of society rather than adjudicating criminal conduct, and its objectives are to provide measures of guidance and rehabilitation for the child and protection for society, not to fix criminal responsibility, guilt and punishment. *Id.*

Presumption of statutory framework is that juveniles are to be treated as juveniles and full investigation is required before waiver to adult court. All possible dispositions short of waiver must be explored by which welfare of child and best interests of district may be secured. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Court's discretion

Juvenile court has a substantial degree of discretion in determining whether to retain jurisdiction over a child, however such discretion must be exercised in accordance with the spirit of the District of Columbia Juvenile Court Act. *M. A. Kent, Jr. v. United States* (1968, 401 F. 2d 408, 130 U.S. App. D.C. 343).

Court's duty

Court in a waiver proceedings from juvenile court to district court has duty to utilize its facilities, personnel and expertise for proper determination of waiver issue. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Juvenile court has the duty to accompany waiver order with a statement of reasons or considerations sufficient to demonstrate full investigation and to show that question has received careful consideration and must set forth basis for order with sufficient specificity to permit meaningful review. *Id.*

Full investigation

Juvenile court's decision in waiver proceeding that facilities currently available to juvenile court offered no promise of rehabilitation did not adequately show that

required full investigation has been made. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Juvenile Court's duty on remand

If juvenile court on remand found that juvenile and mother did not participate fully and intelligently in decision not to demand waiver hearing in transfer from juvenile court to district court it might hold further hearing to determine whether original waiver decision was appropriate. If, however, a hearing would be meaningless at such a late date, juvenile court had to miss indictment. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

A requirement that a fully articulated examination of rehabilitative possibilities be held when waiver is contemplated from juvenile court to district court will be imposed only if juvenile's participation in original proceeding was defective. *Id.*

Right to a waiver hearing

A juvenile's right to a waiver hearing by juvenile court so as to put trial in district court is a critically important right. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Both juvenile and his mother were entitled to insist that at least a hearing be held in connection with waiver from juvenile court to district court. *Id.*

Waiver

Where juvenile's counsel waived hearing without consultation with client, in connection with transfer from juvenile court to district court by letter and telephone conversation and decision of court did not show that it made full investigation before ordering waiver, waiver was improper. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Only after all rehabilitative possibilities have been canvassed, is it ever proper, to waive jurisdiction to district court from juvenile court. *Id.*

Waiver of jurisdiction in case of mentally ill person

Waiver provision of Juvenile Court Act is not excluded from the fundamental philosophy of *parens patriae* which underlies the statute. *M. A. Kent, Jr. v. United States* (1968, 401 F. 2d 408, 130 U.S. App. D.C. 343).

Social philosophy underlying Juvenile Court Act precluded waiver by juvenile court of juvenile afflicted with serious mental illness, since such waiver was not necessary for protection of society and was not conducive to juvenile's rehabilitation. *Id.*

Withdrawal of treatment as a juvenile

Treatment as a juvenile may be withdrawn pursuant to waiver proceedings only after full investigation. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

§ 11-1554. Jurisdiction of persons 18 years of age or over**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 11-1583, 16-2314, 16-2316.

§ 11-1555. Jurisdiction of paternity proceedings**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 11-1583, 16-2314, 16-2342, 16-2356.

NOTES TO DECISIONS**Jurisdiction**

Juvenile court is proper forum in which to seek adjudication of paternity and an award for support of any child born out of wedlock. *A. D. Martin v. L. P. Martin* (D.C. App. 1968, 240 A 2d 363).

§ 11-1556. Concurrent jurisdiction of desertion and nonsupport cases**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 11-1583, 11-1586, 16-2314, 16-2381.

§ 11-1557. Construction of chapter with respect to other jurisdiction**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 11-1583, 16-2314.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 11-1583. Duties of Corporation Counsel

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1586, 16-2316, 16-2341, 16-2356.

§ 11-1584. Assistance and co-operation of officers, departments, institutions, and others

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2316.

NOTES TO DECISIONS

Jurisdiction

Juvenile Court has jurisdiction to enter order concerning child in its custody pendente lite, pending the disposition on the merits. *E. Creek, Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Jurisdiction of the Juvenile Court is comprehensive and is to be taken as attaching at the earliest stage necessary to implement the broad rehabilitative purposes of the law. *Id.*

§ 11-1585. Payment of fines, costs, etc., to clerk; deposit; accounting

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 11-1586. Records; limited inspection; penalties for unlawful disclosure or use

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-2316, 16-2356.

NOTES TO DECISIONS

Evidence—Admissibility

Testimony given in administrative suspension hearing of arresting officer that he and juvenile officer were responsible for seizing juvenile driver's permit and turning it over to Department of Motor Vehicles along with facts relative to the incident, was not product of a disclosure or use of information concerning a juvenile before the court, directly or indirectly derived from record, papers, files, or communications of the court, or acquired in the course of official duties. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

Testimony of arresting officer, in administrative suspension hearing indicating, in response to permit control officer's question, that driver refused to take urine test was not of sufficient magnitude to fatally infect the fairness of the hearing in view of testimony as to odoriferous condition of driver's automobile and driver, his unsteady condition, and his unchallenged admission that he had earlier consumed substantial quantity of beer. *Id.*

Remand to juvenile court after conviction

Conviction of minor remanded with instructions that District Court remand to Juvenile Court for hearing de novo and determination on waiver issue, consistent with standards set forth by Supreme Court; should decision of Juvenile Court be against waiver, indictment should be dismissed, but should waiver be found appropriate, District Court should follow prescribed procedure for trial of minor defendant. *J. J. Watkins v. United States* (1966, 373 F. 2d 681, 126 U.S. App. D.C. 21).

§ 11-1587. Audit of accounts

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 11-1588. Court quarters

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 11-1589. Quarterly reports

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 17.—MISCELLANEOUS PROVISIONS RELATING TO COURTS AND JUDGES

§ 11-1701. Retirement, resignation, or non-reappointment of judges; recall

(a) * * *

(b) (1) (2) (3) * * *

(4) If any judge who has elected to bring himself within the purview of this subsection resigns from office otherwise than under the provisions of this section, the amount credited to his individual account under this subsection, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum, thereafter, compounded on December 31 of each year, to the date of his relinquishment of office, shall be returned to him. Any judge who elected to bring himself within the purview of this subsection and who after making such election is unmarried and has no dependent child may elect—

(A) to terminate the deductions and withholdings from his salary under paragraph (2) of this subsection and any installment payments elected to be made under paragraph (3) of this subsection, and

(B) to have any amounts credited to his individual account under this subsection, to the date of his election under this sentence, returned to him, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter compounded annually to December 31, 1956.

Any election under the preceding sentence shall be made in writing and filed with the Commissioner

in such manner and at such time as he shall prescribe.

* * * * *

(As amended Dec. 5, 1969, Pub. L. 91-140, § 1, 83 Stat. 292.)

AMENDMENTS

1969—Act Dec. 5, 1969, Pub. L. 91-140, amended section by adding to subsection (b) (4) the matter above set out relating to termination of deductions and refund of deposits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 19.—CORONER

§ 11-1901. Definition

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 21.—ATTORNEYS

§ 11-2101. Admission to bar; regulations; oath

NOTES TO DECISIONS

Power of court

Within very wide limits, standards of fitness for membership in the bar of the District Court of the United States for the District of Columbia are for the District Court itself to establish and maintain. *Carver v. Clephane* (1943, 137 F. 2d 685, 78 U.S. App. D.C. 91).

§§ 11-2102, 11-2104

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 11-2105.

Chapter 23.—JURORS AND JURY COMMISSIONERS

CODIFICATION

Act Mar. 27, 1968, Pub. L. 90-274, § 103(a) repealed many of the sections in this chapter, preserving only the last par. of section 11-2302, sections 11-2313 and 11-2314 and amended section 11-2306. The same act amended, generally, chapter 121 of title 28 U.S.C., dealing with juries in Federal Courts. Section 1869(f) of title 28, which defines "district court of the United States," "district court," "court" includes within those definitions the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia, for the purposes of sections 1861, 1862, 1866 (c) and (d) and 1867 of title 28 of the U.S. Code. Subsections (b) (1) and (2) of section 1863 of title 28, U.S. Code contain provisions for the establishment of a jury commission in the District and the selection of jurors.

CROSS REFERENCES

For other provisions dealing with juries and jury trials, see also chapter 121 of title 28, U.S. Code.

§ 11-2301. Repealed. Mar. 27, 1968, Pub. L. 90-274, § 103 (a), 82 Stat. 62

Section, act Dec. 23, 1963, Pub. L. 88-241, § 1, 77 Stat. 505, dealt with the qualifications of citizens for jury service in the courts of the District of Columbia. See section 1865, title 28, U.S. Code.

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: "That this Act [Amending chapter 121 of title 28, U.S. Code and certain other sections of title 28, U.S. Code; Repealing sections 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) and 11-2307 to 11-2312 inclusive, and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the 'Jury Selection and Service Act of 1968'".

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-716, 11-716a) is referred to in sections 45-909, 45-910, 45-914.

§ 11-2302. Exemptions

PARTIAL REPEAL

Act Mar. 27, 1968, Pub. L. 90-274, § 103(a), 82 Stat. 62; repealed all of the section, except the last paragraph. The repealed portion of the section listed the persons who were exempt from jury service. See section 1863(b) (5), (6), and (7) of Title 28 U.S. Code.

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

NOTES TO DECISIONS

Additional jurors

Even if district court should have foreseen that additional names might be necessary to obtain a jury for case and either increased jury call for that month or held case over until next month, trial judge had power to request additional jurors in view of circumstances. *R. G. Baker v. United States* (1968, 401 F. 2d 958, 131 U.S. App. D.C. 7).

Although additional jurors were not placed in general pool until after defendant's jury was drawn, it was no reversible error, where processing of additional jurors, with exception that defendant's name was mentioned to five veniremen who were not ultimately selected, was in accord with normal procedures. *Id.*

Failure to draw jurors ten days before trial in compliance with District of Columbia statute did not require reversal without a showing of prejudice. *Id.*

Jury commissioners' discretion

Jury commissioners must exercise discretion since code merely establishes minimum requirements for prospective grand jurors. *United States v. B. Haywood* (1968, 289 F. Supp. 479).

Method of selection of juries

Process of selection of grand jury that excused any woman who in her response to questionnaire stated she did not wish to serve, though her willingness was encouraged, without showing intentional, systematic, arbitrary or

unreasonable exclusion of women, did not result in grand jury unlawfully constituted. *United States v. B. Haywood* (1968, 289 F. Supp. 479).

Inclusion of persons who maintain voting residences outside District of Columbia, when in fact all 23 members of particular grand jury in question did not vote elsewhere, did not show impropriety in selection of grand jury. *Id.*

Production of prior records

Enforcement of subpoena duces tecum on jury commissioners to obtain records going back many years relating to thousands of questionnaire responses in order to show that grand jury was unlawfully constituted, while new jury selection system under new act was about to go into effect, was not justified or necessary. *United States v. B. Haywood* (1968, 289 F. Supp. 479).

Questionnaire to prospective jurors

Questions in questionnaire used in selection of grand jury as to whether person had ever been arrested or had any views opposed to form of government established by United States Constitution elicited pertinent information and did not render grand jury unlawfully constituted in contravention of Constitution. *United States v. B. Haywood* (1968, 289 F. Supp. 479).

In order to show that questions asked on questionnaire used to select grand jurors rendered grand jury unlawfully constituted, a defendant must establish more than fact that such questions were asked and must also show the use to which such answers were put and the purpose underlying them. *Id.*

§§ 11-2303 to 11-2305. Repealed. Mar. 27, 1968, Pub. L. 90-274, 103(a), 82 Stat. 62

Sections, act Dec. 23, 1963, Pub. L. 88-241, § 1, 77 Stat. 506, 507, dealt with the jury commission, their appointment, qualifications, etc.; keeping of a list of the names of grand and petit jurors and commissions in condemnation proceedings, maintenance of the jury box and the selection of jurors and commissioners.

CROSS REFERENCES

For provisions dealing with the establishment of a jury commission for the District of Columbia and the plan for the selection of jurors, see title 28 U.S.C. section 1863(b) (1) and (2).

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

§ 11-2306. Manner of drawing

(a) If the United States attorney for the District of Columbia certifies in writing to the chief judge of the district court, or, in his absence, to the presiding judge, that the exigencies of the public service require it, the judge may, in his discretion, order an additional grand jury summoned, which shall be drawn at such time as he designates. Unless sooner discharged by order of the chief judge, or, in his absence, the presiding judge, the additional grand jury shall serve until the end of the term in and for which it is drawn.

(b) The jury commission for the United States District Court for the District of Columbia shall draw from the qualified jury wheel from time to time as may be required the names of persons to serve as jurors in the District of Columbia Court of General Sessions and the juvenile court of the District of Columbia, and such persons shall be assigned

to jury panels in the Court of General Sessions and the juvenile court as those courts shall direct. (Dec. 23, 1963, 77 Stat. 507, Pub. L. 88-241, § 1, eff. Jan. 1, 1964; Mar. 27, 1968, Pub. L. 90-274, § 103(b), 82 Stat. 62.)

AMENDMENT

1968—Section 103(b), act Mar. 27, 1968, Pub. L. 90-274, amended section to read as above set out. For provisions of section prior to this amendment, see main edition. Subsection (a) is a restatement of the second paragraph of former subsection (a) and subsection (b) sets out new provisions for drawing jurors to serve in the Court of General Sessions and the juvenile court.

EFFECTIVE DATE OF AMENDMENT AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this act shall not apply in any case in which an indictment has been returned or petit jury impaneled prior to such effective date."

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: "That this Act [Amending chapter 121 of title 28, U.S. Code and certain other sections of title 28, U.S. Code; Repealing sections 7-213a, 13-701, 11-2301 through 11-2305 (except last par. of 11-2302) and 11-2307 to 11-2312 inclusive, and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the 'Jury Selection and Service Act of 1968'".

CROSS REFERENCES

For provisions dealing with the establishment of a jury commission for the District and the plan for the selection of jurors, see title 28 U.S.C. 1863(b) (1) and (2).

Persons who may be excused or barred from jury service, see § 1863(b) (5) and (6) title 28 U.S. Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-716, 11-716a) is referred to in sections 45-909, 45-910, 445-914.

NOTES TO DECISIONS

Drawing of additional jurors

That names of additional prospective jurors were not drawn ten days prior to term was not prejudicial to defendant. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

Impartial jury

Where on voir dire only those jurors were excluded who could not under any circumstance render verdict of guilty with death penalty and one juror who was opposed to death penalty was seated and actually served, defendants sentenced under Federal Youth Corrections Act, after being found guilty of carnally knowing female under 16 years of age, were not entitled to reversal of conviction on ground that jury was not impartial. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Qualifications

Before granting new trial on ground that prospective juror failed to disclose material fact during examination as to his qualifications, it must be shown to court's satisfaction that juror deliberately attempted to deceive court by intentionally concealing facts reasonably called for by question and that defendant was prejudiced thereby. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

Where prospective juror who was lieutenant in reserve of metropolitan police for District of Columbia previously had been told by a judge that he was not a police officer, and was not at time of voir dire questioning a special police officer and he was not paid by the District, his failure to respond to questions as to whether he was connected with police department of District, a special police officer, or employee of District was not basis for new trial, in absence of showing of prejudice to defendant. *Id.*

Systematic exclusion of class or group

Defendant failed to demonstrate that any specific class or group had been systematically excluded by jury commissioners or that there had been any exclusion at all of persons qualified to act as jurors, in proceeding wherein defendant contended he was entitled to new trial on basis that court had erred when it denied his motion to strike jury panel. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

§§ 11-2307 to 11-2312. Repealed. Mar. 27, 1968, Pub. L. 90-274, 103(a), 82 Stat. 62

Sections, act Dec. 23, 1963, Pub. L. 88-241, § 1, 77 Stat. 508 to 509, dealt with, substitution of jurors in cases of vacancies; disposition of jury box after selection of required number of jurors; provided that names drawn could not be placed in box for one year; filling of vacancies when persons drawn as grand or petit jurors cannot be found etc.; summoning of talesman from bystanders in certain cases; summoning of jurors for service in the Court of General Sessions on the Juvenile Court and the length of service of petit jurors in District Court.

CROSS REFERENCE

For other provisions dealing with selection and summoning of jury panels, see title 28 U.S.C. section 1866.

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SECTION REFERRED TO IN OTHER SECTIONS

Former section 2309 (formerly 11-716, 11-716b) is referred to in sections 45-909, 45-910, 45-914.

NOTES TO DECISIONS UNDER FORMER SECTION 11-2309

Drawing of additional jurors

That names of additional prospective jurors were not drawn ten days prior to term was not prejudicial to defendant. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

Qualifications

Before granting new trial on ground that prospective juror failed to disclose material fact during examination as to his qualifications, it must be shown to court's satisfaction that juror deliberately attempted to deceive court by intentionally concealing facts reasonably called for by question and that defendant was prejudiced thereby. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

Where prospective juror who was lieutenant in reserve of metropolitan police for District of Columbia previously had been told by a judge that he was not a police officer, and was not at time of voir dire questioning a special police officer and he was not paid by the District, his failure to respond to questions as to whether he was connected with police department of District, a special police officer, or employee of District was not basis for new trial, in absence of showing a prejudice to defendant. *Id.*

Systematic exclusion of class or group

Defendant failed to demonstrate that any specific class or group had been systematically excluded by jury commissioners or that there had been any exclusion at all of persons qualified to act as jurors, in proceeding wherein defendant contended he was entitled to new trial on basis that court had erred when it denied his motion to strike jury panel. *United States v. R. G. Baker* (1967, 266 F. Supp. 461).

§§ 11-2313, 11-2314

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-716, 11-716a, 11-716b, 11-721) are referred to in sections 45-909, 45-910, 45-914.

TITLE 12.—RIGHT TO REMEDY

Chapter 1.—ABATEMENT AND REVIVOR

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 16-2104.

§ 12-101. Survival of rights of action

NOTES TO DECISIONS

Applicability of Federal rules

Substitution of parties in civil actions in courts of District of Columbia is governed by Federal Rules of Civil Procedure. *L. D. Roscoe v. J. A. Roscoe* (1967, 379 F. 2d 94, 126 U.S. App. D.C. 317).

Damages

Under statute providing that on death of person for or against whom right of action accrued prior to death, right of action shall survive, provided that in tort actions, right of action shall be limited to damages for physical injury except for pain and suffering, fact of injury alone is not sufficient basis for recovery, and award of damages must be based on results of injury rather than on mere fact of injury. *C. Bogen, Executrix, etc. v. L. G. Green* (D.C. App. 1968, 239 A. 2d 154).

Defendant executrix, who was substituted as defendant in personal injury action following death of tort-feasor, was entitled, having made point in proper and timely fashion, to rulings and instructions defining proper elements of recovery under statute providing that on death of person for or against whom right of action accrued prior to death, right of action shall survive, provided that in tort actions, right of action shall be limited to damages for physical injury except for pain and suffering, and failure to make rulings requested required new trial. *Id.*

Libel and slander

1963 amendment to survival statute did not change rule that action for libel and slander does not survive death of defendant. *H. S. Wender v. S. Hamburger, etc.* (1968, 393 F. 2d 365, 129 U.S. App. D.C. 256).

— Pain and suffering

Statute providing that on death of person for or against whom right of action accrued prior to death, right of action shall survive, provided that in tort actions right of action shall be limited to damages for physical injury except for pain and suffering precludes recovery for pain and suffering where either injured party or wrongdoer has died prior to trial. *C. Bogen, Executrix, etc. v. L. G. Green* (D.C. App. 1968, 239 A. 2d 154).

Separate and independent claims

Negligent conduct resulting in death may generate simultaneously two independent bases for action, one under the Survival Act and the other under the Wrongful Death Act, upon each of which damages may be sought. *W. J. Emmett, Administrator etc. v. Eastern Dispensary and Casualty Hospital et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Negligent act causing death can give rise simultaneously to separate and independent claims under Wrongful Death Act and under Survival Act. *P. Wharton and L. Wharton etc. v. G. L. Jones et al.* (1968, 285 F. Supp. 634).

Survival of action against relatives for support

Where 84-year-old widow invoked the District of Columbia Public Assistance Act of 1962 against her eldest daughter, and the District of Columbia Court of General Sessions denied recovery, and, pending appeal to District of Columbia Court of Appeals, widow died, and her daughter moved for dismissal for mootness against substituted executor, District of Columbia Survival Act did not require abatement, and it was error to grant motion for dismissal for mootness. *J. M. Stone, Executor etc. v. A. W. Brewster* (1968, 399 F. 2d 554, 130 U.S. App. D.C. 183).

Tolling of statute

Pendency of personal injury action under Survival Act does not toll statute of limitations on a death claim. *P. Wharton and L. Wharton etc. v. G. L. Jones et al.* (1968, 285 F. Supp. 634).

Pendency of wrongful death action did not toll statute of limitations on claim under Survival Act. *Id.*

Waiver of physicians-patient privilege

Under statute providing that no physician or surgeon shall be permitted without consent of patient or his legal representatives to disclose any confidential information acquired in attending patient professionally, the duly qualified personal representative, when there is one, is deceased patient's "legal representative" for purposes of gathering information with a view to prosecuting a wrongful death claim. *W. J. Emmett, Administrator, etc. v. Eastern Dispensary and Casualty Hospital et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Decedent's son and only child had so vital an identification with any cause of action potentially arising upon his father's negligently caused demise as would enable him to waive the physician-patient privilege as to pertinent medical data where there was no personal representative to act in his behalf so that the assertion of the physician-patient privilege did not defeat son's right to inspect decedent's medical report or establish physician's and hospital's duty to preserve confidentiality of records against all save decedent's legal representative. *Id.*

Chapter 3.—LIMITATION OF ACTIONS

§ 12-301. Limitation of time for bringing actions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12-308.

NOTES TO DECISIONS

Acts constituting adverse possession

Payment of taxes is strong evidence of a claim of title when paid by someone other than record owner, however, a mere showing that the record owner, in the course of paying taxes for a lot he concededly owns, also pays an amount ascribable to a small border strip, does not negative another's adverse possession of that strip. *L. M. Gary et ano. v. E. B. Dane III* (1969, 411 F. 2d 711, — U.S. App. D.C. —).

Owner's building or fencing out of land is not sufficient to establish adverse possession, despite mere nonuser by record landowner, but there must also be evidence of open and notorious adverse possession by another, up to the fence or structure. *Id.*

Adverse possession

While casual acts are not enough to establish ownership by adverse possession, there is a presumption, effective to establish title in the absence of evidence to the contrary, that the possession is adverse whenever there is "open and continuous use of another's land". *L. M. Gary et ano. v. E. B. Dane III* (1969, 411 F. 2d 711, — U.S. App. D.C. —).

Evidence was sufficient to establish title by adverse possession. *Id.*

Delay in delivery of summons and complaint to Marshal

Failure of plaintiff to deliver summonses and copies of complaint to the United States Marshal until 18 days after period of limitations had run was not excusable because of fact that two of corporate defendants were not residents of the District of Columbia and could not be sued and would not be served until plaintiff first filed traffic act bond required by D.C. Code. *Criterion Insurance Company, etc. v. W. H. Lyles, et al.* (D.C. App. 1968, 244 A. 2d 913).

Delay in mailing summons and complaint

Although copies of summons and complaint were served upon Director of Motor Vehicles in action arising out of motor vehicle collision in District of Columbia with non-resident motorist, mailing summons and complaint to nonresident motorist seven months after statute of limitations had run constituted failure to comply with statutory requirement that notice of such service and copy of process be sent "forthwith" by registered mail. *R. J. Heinrich v. R. S. Huke* (D.C. App. 1968, 244 A. 2d 915).

Evidence—Sufficiency

The court below was correct in concluding, on issue whether clients were estopped by their informal assurances to attorney from asserting limitations as defense in attorney's action to recover fee, that the evidence was insufficient for jury. *R. M. Brown v. Edward Oliver Lamb and Dispatch, Inc.* (1969, 414 F. 2d 1210, — U.S. App. D.C. —).

Ignorance or mistake

Our jurisdiction recognizes the doctrine that a claim of adverse possession may be rooted in ignorance or mistake, if there was intent to possess disputed area. *L. M. Gary et ano. v. E. B. Dane III* (1969, 411 F. 2d 711, — U.S. App. D.C. —).

Injury to real property

Armory board's contracting officer's knowledge in February of 1962 that cracking in concrete structure of stadium was due to interaction of aluminum conduit and calcium chloride was imputable to board itself, and complaint filed by armory board against conduit manufacturer and architectural firm in March of 1966 alleging that cause of cracks was use of aluminum conduit in conjunction with calcium chloride in concrete mix was barred by three-year period of limitations governing injuries to real property. *The District of Columbia Armory Board et al. v. D. G. Volkert, etc., et al.* (1968, 402 F. 2d 215, 131 U.S. App. D.C. 74).

A complaint by armory board against architectural firm which was replete with references to fact that stadium had been substantially damaged by cracking in concrete structure and that board was entitled to be made whole for past and future costs of repairing such damage, purpose of action was to recover for an injury to real property, and three-year period of limitations governing injuries to real property, was applicable. *Id.*

Preoccupation in statute pertaining to limitation of time for bringing actions with property injury claims as a distinct class indicates a policy that lawsuits involving them should be heard and disposed of with reasonable promptitude, both for reasons of efficiency in evidentiary exploration and because of undesirability of lengthening unduly into future unresolved shadows of such claims. *Id.*

In real or personal property damage suits brought to recover damages, three-year period of limitations is applicable, whether contract (sealed or unsealed, written or oral) or tort be made legal vehicle of recovery, and not twelve-year period for suits on an instrument under seal. *Id.*

The rule that three-year period of limitation applies where real or personal property is injured and suits are brought to recover damages, whether contract (sealed or unsealed, written or oral) or tort be made legal vehicle of recovery does not render 12-year period of limitation on sealed instruments a nullity, inasmuch as 12-year period operates where suits on such instruments do not have as their purpose recovery of damages for injury to real or personal property. *Id.*

Malpractice

When a foreign object is left in a patient's wound at the close of surgical operation, statute of limitations governing action against physician begins to run when patient becomes aware, or should have become aware of what had happened, and not at moment when surgeon closes wound with foreign object abandoned inside. *M. Burke and A. O. Burke v. Washington Hospital Center* (1968, 293 F. Supp. 1328).

The court did not see any good reason for drawing a distinction between malpractice suits and other negligence cases and concluded that impounding of the boats might have been found to be an injury that resulted from appellees' erroneous advice and the three year statute

of limitations applied. *Fort Myers Seafood Packers, Inc. v. Steptoe and Johnson et al.* (1967, 381 F. 2d 261, 127 U.S. App. D.C. 93).

Prescriptive easement

Where claimant of easement by prescription in alley had not owned property for 15-year period, was not in privity with users of alley and did not show use by titular predecessors, claimant did not possess prescriptive easement in alley. *S. S. Zlotnick et al. v. J. I. Benders & Sons, Inc.* (1968, 285 F. Supp. 548).

Tacking of use in order to acquire easement by prescription is impossible without showing of privity between users. *Id.*

Occasional use of alley by some of employees of Claimant's tenants for personal rather than business purposes could not be imputed to claimant of easement by prescription in alley for purpose of establishing use for prescriptive period. *Id.*

Evidence in declaratory judgment action did not establish that alley was continually used by general public for prescriptive period of 15 years. *Id.*

An easement for an air shaft based on open and notorious hostile adverse possession and use for 15 years can be obtained. *Id.*

Tolling of statute

Fraudulent concealment of information moving party needs in order to determine whether there is a litigable dispute tolls the running of statute of limitations on death action. *W. J. Emmett, Administrator, etc. v. Eastern Dispensary and Casualty Hospital, et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Statute of limitations on filing wrongful death and survival action was tolled by unprivileged failure of physician and hospital to permit decedent's son to inspect decedent's medical records. *Id.*

Pendency of personal injury action under Survival Act does not toll statute of limitations on a death claim. *P. Wharton and L. Wharton etc. v. G. L. Jones et al.* (1968, 285 F. Supp. 634).

Pendency of wrongful death action did not toll statute of limitations on claim under Survival Act. *Id.*

§§ 12-302, 12-305**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 12-308.

§ 12-307. Foreign judgments**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 12-308.

NOTES TO DECISIONS**Suit in another jurisdiction**

Three-year District of Columbia statute of limitations was not tolled by filing of suit against clients by attorney, in Ohio to recover fee. *R. M. Brown v. Edward Oliver Lamp and Dispatch, Inc.* (1969, 414 F. 2d 1210, — U.S. App. D.C. —).

§ 12-309. Actions against District of Columbia for unliquidated damages; time for notice**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS**Construction**

The statute which requires a notice of claim as a prerequisite to maintenance of action against District of Columbia is in derogation of common law and must be strictly construed. *A. Boone v. District of Columbia* (1968, 294 F. Supp. 1156).

Purpose of statute

The purpose of a statute which requires a notice of claim as a prerequisite to maintenance of action against District of Columbia is to give District's officials reasonable notice of accident so that facts may be ascertained and, if possible, claim adjusted. *A. Boone v. District of Columbia* (1968, 294 F. Supp. 1156).

Sufficiency of notice

Notice of claim is fatally defective if one or more of the statutory elements is lacking. *A. Boone v. District of Columbia* (1968, 294 F. Supp. 1156).

Notice of claim was fatally defective where notice failed to apprise District of identity of claimant and notice did not advise District of circumstances of injury, namely loss of consortium. *Id.*

Written notice

Requirement of District of Columbia statute of written notice of claim for injury, providing that police report is sufficient, was satisfied where detective immediately and thoroughly investigated accident and promptly made detailed official report. *S. A. Thomas as the administrator etc., and J. F. Wynn, Jr. v. Potomac Electric Power Company and Dist. of Col.* (1967, 266 F. Supp. 687).

TITLE 13.—PROCEDURE GENERALLY

Chapter 1.—RULES OF PROCEDURE

§ 13-101. Prescription of rules by courts

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-766, 16-416) is referred to in sections 16-3901, 16-3910, 30-306.

Chapter 3.—PROCESS AND PARTIES

SUBCHAPTER I.—GENERAL PROVISIONS

§ 13-301. Courts to which applicable

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-765) is referred to in section 30-306.

§ 13-302. Service by marshal

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-748, 11-765) is referred to in sections 30-306, 45-909, 45-910, 45-914.

SUBCHAPTER II.—SERVICE OF PROCESS; LEGAL REPRESENTATIVES

§ 13-332. Service on infants; appointment and compensation of guardian and attorney

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13-340.

§ 13-336. Service by publication on nonresidents, absent defendants, and unknown heirs or devisees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 13-335, 13-337.

§ 13-340. Manner of publication; mailing of copy; default; appointment and compensation of guardian and attorney

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-3706, 16-3735.

§ 13-341. Service by publication on persons unknown to be living or dead and on unknown heirs and devisees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3301.

Chapter 7.—TRIAL

§ 13-701. Repealed. Mar. 27, 1968, Pub. L. 90-274, § 103 (a), 82 Stat. 62

Section, Act Dec. 23, 1963, Pub. L. 88-241, § 1, 77 Stat. 517, dealt with special juries in the United States District Court for the District of Columbia. For other provisions dealing with juries, see ch. 121 of title 28, U.S. Code.

EFFECTIVE DATE OF REPEAL AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

§ 13-702. Jury trials in civil cases in Court of General Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-715) is referred to in sections 45-909, 45-910, 45-914.

TITLE 14.—PROOF

Chapter 1.—EVIDENCE GENERALLY; DEPOSITIONS

§ 14-102. Impeachment of own witness; surprise

NOTES TO DECISIONS

Admissibility of deposition

Deposition of party may be admitted for any purpose including introduction as independent or original evidence. *Firemen's Insurance Company of D.C. etc., et ano. v. Henry Fuel Company, Inc., et ano.* (D.C. App. 1968, 245 A. 2d 127).

When witness denies giving answer in deposition or does not remember doing so and his recollection is not refreshed on a reading of questions and his answers, deposition should be offered and received as evidence that statements were made but only to affect credibility and not as affirmative evidence. *Id.*

Discretion of Court

Permitting prosecutor to read statements of government witnesses in their entirety to jury in course of his use of them for impeachment purposes pursuant to claim of surprise was not abuse of discretion. *J. S. Coleman v. United States* (1966, 371 F. 2d 343, 125 U.S. App. D.C. 246).

Failure, sua sponte, to immediately caution jury as to limited purpose for which statements of government witnesses used for impeachment purposes pursuant to claim of surprise were being received was not abuse of discretion. *Id.*

Wide latitude in discretion of judge is to be allowed in examination of a recalcitrant witness. *L. O. Troublefield v. United States* (1967, 372 F. 2d 912, 125 U.S. App. D.C. 339).

Foundation for impeachment

When a party is taken by surprise by the evidence of his witness, the latter may be interrogated as to inconsistent statements previously made by him for purpose of refreshing his recollection and inducing him to correct his testimony, and party so surprised may also show the facts to be otherwise than as stated, although this incidentally tends to discredit the witness. *L. O. Troublefield v. United States* (1967, 372 F. 2d 912, 125 U.S. App. D.C. 339).

Before actual proof of inconsistent statements may be given by party surprised by testimony of his own witness, witness must be confronted with circumstances of the earlier statement, and he must be asked whether or not he made such statement and be given opportunity to explain. *Id.*

Where prosecution witness admitted presence when shooting occurred but denied that he had seen the shooting and swore that he did not know who had done the shooting, and at bench conference the prosecutor presented to trial judge a statement signed by witness inconsistent with such testimony, and witness admitted his signature to statement but swore that he had never seen the paper before, court properly ruled that foundation for surprise had been laid and prosecutor had right to put questions as to inconsistent statement. *Id.*

Harmless or prejudicial error

Court's failure to admit deposition, after witness at trial stated that he could not recall events of fire or his testimony given at deposition, was not prejudicial error where court did consider the impeaching testimony as of record and even gave it every affirmative consideration in making its decision. *Firemen's Insurance Company of Washington, D.C., etc., et ano. v. Henry Fuel Company, Inc., et ano.* (D.C. App. 1968, 245 A. 2d 127).

Impeachment

"Surprise" referred to in the statute permitting government to impeach its own witness is presumably

founded upon good faith. *W. M. Brown v. United States* (1969, 411 F. 2d 716, — U.S. App. D.C. —).

An affidavit and pleading asserting that government avoided further interrogation of its own witness before trial in order to be able to claim surprise and thereby to impeach the witness required remand for supplementation by findings and conclusions by district court after evidentiary hearing on post-trial motion for new trial on ground of newly discovered evidence. *Id.*

Surprise

Statute permitting impeachment of witnesses pursuant to claim of surprise contemplates ruling by trial court which comprehends, in addition to finding of surprise, immediate representation to jury as to purpose for which impeaching statements are being permitted to come in. *J. S. Coleman v. United States* (1966, 371 F. 2d 343, 125 U.S. App. D.C. 246).

§ 14-104. Testimony of nonresident witnesses for use in Court of General Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-741) is referred to in sections 45-909, 45-910, 45-914.

Chapter 3.—COMPETENCY OF WITNESSES

§ 14-302. Testimony against deceased or incapable person

NOTES TO DECISIONS

Admissions of decedent

Statute which prohibits a judgment against the personal representative of deceased on uncorroborated testimony of plaintiff was applicable only to plaintiff, not defendant, and permitting landlady to testify, in suit by decedent's administratrix to recover balance of bank account held in joint names of decedent and decedent's landlady and to recover automobile registered in both decedent's and landlady's names, as to declarations and admissions of decedent did not violate such statute. *E. L. Prather v. J. B. Hill* (D.C. App. 1969, 250 A. 2d 690).

Corroboration

Where witnesses, who were not disqualified by statute, testified that in their presence decedent spoke of car as landlady's car and of joint bank account in a manner indicating he considered it as landlady's, there was sufficient corroboration to permit landlady to testify, in suit by decedent's administratrix to recover balance of bank account held in joint names of decedent and decedent's landlady and to recover automobile registered in both decedent's and landlady's names, as to declarations and admissions of decedent, even if statute prohibiting judgment against decedent's personal representative on uncorroborated testimony of plaintiff was applicable. *E. L. Prather v. J. B. Hill* (D.C. App. 1969, 250 A. 2d 690).

Dead man's statute permits judgment against estate of deceased person based essentially on the survivor's testimony if there is other evidence from which reasonable men might conclude that his testimony is probably true. *J. W. Toliver and L. M. Kennedy v. G. A. Durham, Executrix etc.* (D.C. App. 1968, 240 A. 2d 359).

Under statute prohibiting judgment against representative of decedent on unsupported testimony of adversary, each case depends upon its own facts and test is whether evidence, taken as whole, tends to make story substantially more credible. *Id.*

Record disclosing that trial court in dismissing claims for personal service rendered decedent may have found corroborating testimony was not sufficient to produce belief that claimants' testimony was probably true would not support contention that trial court too narrowly interpreted dead man's statute in dismissing claims. *Id.*

§ 14-303. Testimony of deceased or incapable person

NOTES TO DECISIONS

Conversation with deceased vendor

Conversation that deceased vendor had with one of her daughters during her life in which she told her that that government had informed the vendor that she was not legally entitled to any compensation for gravel pit on land sold by the vendor to Army Corps of Engineers would be admissible only if given as testimony before her death; which was not the case here. *I. E. Mills and F. E. Mahoney v. United States* (1969, 410 F. 2d 1255, U.S. Court of Claims).

§ 14-305. Conviction of crime

NOTES TO DECISIONS

Abuse of discretion

It was not an abuse of discretion to deny impeachment of complaining witness in prosecution for robbery by reference to complaining witness' prior convictions for assault and rape affecting substantial rights of defendants where impeachment of the witness with three convictions for crimes of auto theft, robbery, and burglary, each crime having element of dishonesty, was permitted. *G. A. Davis et al. v. United States* (1969, 409 F. 2d 453, — U.S. App. D.C. —).

Admissibility of prior conviction

Admission, for impeachment purposes, of prior conviction, entered on plea of guilty, for misdemeanor of taking property without right did not constitute reversible error in robbery prosecution. *A. A. Williams v. United States* (1969, 409 F. 2d 471, — U.S. App. D.C. —).

Statute which permits fact of prior conviction to be given in evidence to affect defendant's credibility as a witness comprehends misdemeanor convictions and did not preclude admission of prior misdemeanor, conviction of taking property without right for impeachment purposes in robbery prosecution. *Id.*

Evidence of prior convictions

It was prejudicial to admit, without limit, evidence of three prior petit larceny convictions on ground that the convictions were relevant to the veracity of defendant accused of attempted petit larceny. *W. G. Smith v. United States* (D.C. App. 1969, 256 A. 2d 901).

Allowing government to question defendant accused of petit larceny as to his former larceny convictions did not constitute an abuse of discretion in view of fact that trial judge fully instructed jury that they were to consider such evidence only in connection with their evaluation of credence to be given defendant's testimony and that prior convictions were in no way evidence of defendant's guilt of present charge. *F. Ginyard v. United States* (D.C. App. 1967, 232 A. 2d 590).

Exemption from impeachment

In order for a defendant to have right to testify free from impeachment by prior convictions, the defense must show how and why his case calls for discretionary exemption from impeachment, and merely stating it is important for defendant to testify is not sufficient to meet such burden. *M. Evans et ano. v. United States* (1968, 397 F. 2d 675, 130 U.S. App. D.C. 114).

Harmless error

Any error resulting from alleged unconstitutionality of statute permitting impeachment of credibility of witnesses by means of prior criminal conviction was, as to defendant who elected not to testify in trial for robbery, harmless beyond any reasonable doubt. *F. Weaver v. United States* (1969, 408 F. 2d 1269, — U.S. App. D.C. —).

Impeachment

Evidence of prior felony convictions was proper for impeachment purposes against defendant who took the stand in his own defense. *K. J. Burg v. United States* (1969, 406 F. 2d 235, Ninth Circuit).

Five-year-old robbery conviction was not too remote for impeachment of credibility of defendant on trial for robbery. *F. Weaver v. United States* (1969, 408 F. 2d 1269, — U.S. App. D.C. —).

Where there was no claim either at the trial or on appeal that the provisions of the Youth Corrections Act

manifest a congressional purpose that convictions under that Act not be used for impeachment purposes, then the trial judge did not abuse his discretion by allowing impeachment by a prior robbery conviction in which the sentence had been made under the Youth Corrections Act. *Id.*

Refusal of the court to exercise its discretion and permit defendant on trial for robbery to testify free of impeachment by prior conviction, and trial court's decision to permit use of five-year-old robbery conviction for impeachment if defendant should choose to testify, were not abuse of discretion. *Id.*

It was proper to receive in evidence defendant's prior petit larceny conviction in subsequent prosecution for unauthorized use of motor vehicle, possession of sawed-off shotgun, and carrying a dangerous weapon, where defendant's testimony that he had not stolen the automobile directly conflicted with credible testimony offered by prosecution, and petit larceny involved elements of "deceit, fraud, cheating, or stealing" which reflect "adversely on a man's honesty and integrity". *R. Smith, Jr., etc. v. United States* (1968, 406 F. 2d 667, 132 U.S. App. D.C. 131).

Where defense raises issue of whether evidence of defendant's prior convictions should be excluded from trial for purposes of impeaching defendant's credibility when he testifies, even though burden of persuasion remains on defendant, there is a duty on judge to make sufficient inquiry to inform himself on relevant considerations. *L. B. Jones v. United States* (1968, 402 F. 2d 639, 131 U.S. App. D.C. 88).

On showing that defendant's testimony at his trial for robbery was essential because prosecution based whole case on delayed identification by complaining witness and therefore decision depended on credibility, trial judge's permitting evidence of defendant's prior conviction of assault to be introduced to impeach defendant's credibility was an abuse of discretion. *Id.*

Crime of assault is remotely, if at all, probative on issue of veracity of a defendant who testifies at his own trial. *Id.*

Impeachment of an accused by proof of past criminal violations remains a legitimate technique only so far as its probative importance on credibility justifies, in terms of the quest for truth, the inherent risk of prejudice on issue of guilt; the matter remains one of discretion. *A. B. Brooke v. United States of America* (1967, 385 F. 2d 279, 128 U.S. App. D.C. 19).

In exercise of trial judge's discretion in determining whether to allow impeachment of defendant by prior conviction when defendant takes stand in his own defense, the standard is whether trial judge believes the prejudicial effect of impeachment far outweighs the probative relevance of the prior conviction to the issue of credibility. *M. W. Gordon v. United States* (1967, 383 F. 2d 936, 127 U.S. App. D.C. 343; cert. denied 390 U.S. 1029, 20 L. Ed. 2d 287).

Defendant who takes the stand in his own behalf has burden of persuasion that the trial court should exclude evidence of defendant's prior conviction. *Id.*

To bar impeachment of defendant by prior conviction when defendant takes stand in his own defense, trial court must find that the prejudice far outweighs the probative relevance to credibility or that, even if relevant, the cause of truth would be helped more by letting the jury hear the defendant's story than by the defendant's foregoing that opportunity because of the fear of prejudice founded upon a prior conviction. *Id.*

When issue of whether defendant's prior convictions should not be admitted for impeachment purposes is raised, trial court should make an inquiry, allowing the defendant an opportunity to show why judicial discretion should be exercised in favor of exclusion of criminal record. *Id.*

Legitimate purpose of impeachment is not to show that the accused who takes the stand is a "bad" person but rather to show background facts which bear directly on whether jurors ought to believe him rather than other and conflicting witnesses. *Id.*

The reason for exposing defendant's prior criminal record is to attack his character and to call into question his reliability for truth telling. *Id.*

Convictions which rest on dishonest conduct relate to credibility of witness while those of violent or assaultive crimes generally do not. *Id.*

Traffic violations, however serious, generally do not relate to credibility. *Id.*

Prior conviction, even one involving fraud or stealing, if it occurred long before and has been followed by legally blameless life, should generally be excluded for impeachment purposes on ground of remoteness. *Id.*

Generally, those convictions which are for the same crime should be admitted sparingly for purpose of impeachment of defendant, with possible solution being that discretion be exercised to limit impeachment by way of a similar crime to a single conviction and then only when circumstances indicate strong reasons for disclosure, and where the conviction directly relates to veracity. *Id.*

In nonjury hearing during criminal trial for purpose of determination of whether defendant's prior convictions should be admitted for impeachment purposes, defendant could not be compelled to give testimony and such testimony as given would not be admissible in evidence except for impeachment. *Id.*

Trial court did not abuse its discretion in robbery and assault with a dangerous weapon prosecution by permitting the government to impeach defendant's testimony by showing prior conviction. *Id.*

Impeachment of witness

Ruling that prior criminal convictions may not be automatically received into evidence for purposes of impeachment and may be excluded by trial judge in exercise of his discretion applies to all witnesses. *G. A. Davis, et al. v. United States* (1969, 409 F. 2d 453, — U.S. App. D.C. —).

The doctrine that a statute governing impeachment by conviction means that prior criminal convictions are not to be automatically admitted for purpose of impeachment and may be excluded by trial judge in exercise of his discretion, applies to other witnesses as well as to criminal defendants, though there may be cases where trial judge should make distinctions in his impeachment rulings. *Id.*

Record of impeachment

Consideration of question whether trial court abused its discretion by permitting government to cross-examine defendant as to prior petit larceny conviction had to be on the record. *R. Smith, Jr., etc. v. United States* (1968, 406 F. 2d 667, 132 U.S. App. D.C. 131).

Review

Defendant's taking stand does not preclude his raising point on appeal as to whether trial judge abused discretion in permitting introduction of prior conviction to impeach defendant's credibility. *L. B. Jones v. United States* (1968, 402 F. 2d 639, 131 U.S. App. D.C. 88).

Conviction for violation of federal narcotics laws was affirmed on appeal in which defendant raised issue whether there was adequate evidence to support verdict of guilty and asserted a failure by trial court to exercise discretion committed to it with respect to admission of a prior conviction to impeach defendant's credibility. *F. Blakney v. United States* (1968, 397 F. 2d 648, 130 U.S. App. D.C. 87).

§ 14-307. Physicians

NOTES TO DECISIONS

Legal representative

Under statute providing that no physician or surgeon shall be permitted without consent of patient or his legal representatives to disclose any confidential information acquired in attending patient professionally, the duly qualified personal representative, when there is one, is deceased patient's "legal representative" for purposes of gathering information with a view to presecuting a wrongful death claim. *W. J. Emmett, Administrator etc. v. Eastern Dispensary and Casualty Hospital et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Decedent's son and only child had so vital an identification with any cause of action potentially arising upon his father's negligently caused demise as would enable him to waive the physician-patient privilege as to pertinent medical data where there was no personal representative to act in his behalf so that the assertion of the physician-patient privilege did not defeat son's right to inspect decedent's medical report or establish physician's and hospital's duty to preserve confidentiality of records against all save decedent's legal representative. *Id.*

Right of decedent's son to inspect medical records

Statue defining physician-patient privilege and, by its terms, operating only in the courts of the District of Columbia was not applicable and did not preclude decedent's son from inspecting decedent's medical records or render physician and hospital free of any duty to make such records available where lawsuit had not taken shape when son asked that records be made accessible. *W. J. Emmett, Administrator etc. v. Eastern Dispensary and Casualty Hospital et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Chapter 5.—DOCUMENTARY EVIDENCE

§ 14-505. Municipal ordinances and regulations

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan set out in the appendix to title 1.

Chapter 7.—ABSENCE FOR SEVEN YEARS

§ 14-701. Presumption of death

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14-702, 20-2315.

§ 14-702. Person presumed dead found living

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-2315.

TITLE 15.—JUDGMENTS AND EXECUTIONS; FEES AND COSTS

Chapter 1.—JUDGMENTS AND DECREES

SUBCHAPTER I.—GENERALLY

§ 15-101. Enforceable period of judgments; expiration

(a) Except as provided by subsection (b) of this section, every final judgment of final decree for the payment of money rendered in the—

(1) United States District Court for the District of Columbia; or

(2) District of Columbia Court of General Sessions—

when filed and recorded in the office of the Recorder of Deeds of the District of Columbia, is enforceable, by execution issued thereon, for the period of twelve years only from the date when an execution might first be issued thereon, or from the date of the last order of revival thereof. The time during which the judgment creditor is stayed from enforcing the judgment, by written agreement filed in the case, or other order, or by the operation of an appeal, may not be computed as a part of the period within which the judgment is enforceable by execution.

(b) * * *

(As amended Mar. 11, 1968, Pub. L. 90-263, § 1, 82 Stat. 42.)

AMENDMENTS

1968—Section 1, act Mar. 11, 1968, Pub. L. 90-263 amended the first sentence of subsection (a) to read as above set out. For provisions of this sentence prior to this amendment see the main edition.

EFFECTIVE DATE FOR 1968 AMENDMENT

Section 4(a), act Mar. 11, 1968, Pub. L. 90-263, provided that the amendments made to this section and section 15-102 “shall apply only with respect to judgments or decrees rendered in, or recognizances declared forfeited by, the United States District for the District of Columbia on and after April 1, 1968.”

§ 15-102. Lien of judgment, decree, or forfeited recognizance

(a) Each—

(1) final judgment or decree for the payment of money rendered in the United States District Court for the District of Columbia, or the District of Columbia Court of General Sessions, from the date such judgment or decree is filed and recorded in the office of the Recorder of Deeds of the District of Columbia, and

(2) recognizance taken by the United States District Court for the District of Columbia, or the District of Columbia Court of General Sessions, from the date the entry or order of forfeiture of such recognizance is filed and recorded in the office of the Recorder of Deeds of the District of Columbia,

shall constitute a lien on all the freehold and leasehold estates, legal and equitable, of the defendants bound by such judgment, decree, or recognizance, in any land, tenements, or hereditaments in the Dis-

trict of Columbia, whether the estates are in possession or are reversions or remainders, vested or contingent. Such liens on equitable interest may be enforced only by an action to foreclose.

(b) * * *

(As amended Mar. 11, 1968, Pub. L. 90-263, § 2, 82 Stat. 42.)

AMENDMENT

1968—Section 2(a) (there is no section 2(b) in the Act) act Mar. 11, 1968, Pub. L. 90-263, amended subsection (a) to read as above set out. For provisions of subsection prior to this amendment see the main edition.

EFFECTIVE DATE OF 1968 AMENDMENT

See note under section 15-101.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 15-103) is referred to in section 45-708.

SUBCHAPTER II.—COURT OF GENERAL SESSIONS

§ 15-131. Judgments and executions generally; interest

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-718, 11-724) is referred to in sections 45-909, 45-910, 45-914.

§ 15-132. Enforceable period of unrecorded judgments; enforcement of judgments, etc., of the District of Columbia Court of General Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-718, 11-743, 11-763) is referred to in sections 15-706, 16-578, 30-306, 45-909, 45-910, 45-914.

§ 15-133. Satisfaction of judgment; recordation

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-742) is referred to in sections 45-909, 45-910, 45-914.

Chapter 3.—ENFORCEMENT OF JUDGMENTS AND DECREES

§ 15-302. Period during which writ of execution may issue; returnable period

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15-301, 15-303.

§§ 15-303 to 15-310

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 15-301.

§ 15-311. Property subject to levy

The writ of fieri facias may be levied on all goods and chattels of the debtor not exempt from execution, and upon money, bills, checks, promissory notes, or bonds, or certificates of stock in corporations owned by the debtor, and upon his money in the hands of the marshal or his deputy or other officer or person charged with the execution of the writ. A writ of fieri facias issued from the United States District Court for the District of Columbia

or the District of Columbia Court of General Sessions upon a judgment entered in such court may be levied on all legal leasehold and freehold estates of the debtor in land, but only after such judgment has been filed and recorded in the office of the Recorder of Deeds of the District of Columbia. (Dec. 23, 1963, 77 Stat. 526, Pub. L. 88-241, § 1, eff. Jan. 1, 1963; July 5, 1966, 80 Stat. 264, Pub. L. 89-493, § 12; Nov. 2, 1966, 80 Stat. 1178, Pub. L. 89-745, § 5; Mar. 11, 1968, Pub. L. 90-263, § 3, 82 Stat. 42.)

AMENDMENT

1968—Section 3, act Mar. 11, 1968, Pub. L. 90-263, amended section to read as above set out. For provisions of section prior to this amendment, see the main edition.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 4(b), act Mar. 11, 1968, Pub. L. 90-263, provided that the amendments made by section 3 thereof, "shall apply only with respect to writs of fieri facias issued by the United States District Court for the District of Columbia on and after April 1, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15-301.

§§ 15-312 to 15-318

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 15-301.

§ 15-320. Enforcement of decrees

NOTES TO DECISIONS

Judgment of specific performance of support agreement

Trial court could not commit husband for his contemptuous failure to comply with order for specific performance of agreement to pay wife \$200 monthly for her support though husband was able to make such payments but deliberately refused to carry out his agreement and money judgments against him could not be collected by ordinary process. *C. M. O'Mara v. R. M. O'Mara* (D.C. App. 1968, 238 A.2d 586).

Chapter 5.—EXEMPTIONS AND TRIAL OF RIGHT TO SEIZED PROPERTY

SUBCHAPTER I.—EXEMPTIONS

§ 15-501. Exempt property of householder; property in transitu; debt for wages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-706.

NOTES TO DECISIONS

Appealable orders

An order which denies a motion to quash an attachment is not final and hence not generally appealable, unless possession of property is changed or affected. *G. F. Ludington et ano. v. R. Bogdonoff* (D.C. App. 1969, 256 A.2d 921).

In this case possession of property was not affected by the denial of intervenors' motion to quash attachment, and appeal from order denying motion was premature and District of Columbia Court of Appeals was without jurisdiction of appeal. *Id.*

§§ 15-502, 15-503

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 20-706.

SUBCHAPTER II.—TRIAL OF RIGHT TO PROPERTY SEIZED ON PROCESS OF COURT OF GENERAL SESSIONS

§ 15-521. Notice of claim or exemption, trial

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-744) is referred to in sections 15-522, 15-523, 45-909, 45-910, 45-914.

§§ 15-522 to 15-524

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-745, 11-746, 11-747) are referred to in sections 45-909, 45-910, 45-914.

Chapter 7.—FEES AND COSTS

§ 15-702. Docket fees of attorneys and proctors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15-709.

§ 15-703. Deposit for costs; security for costs by non-residents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15-711.

§ 15-706. Clerk's fees in United States District Court for the District of Columbia

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 15-704, 15-707.

§ 15-709. Fees and costs in Court of General Sessions in civil and criminal cases

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-722, 11-748) is referred to in sections 15-713, 16-703, 45-909, 45-910, 45-914.

§ 15-710. Fees and costs in Domestic Relations Branch of Court of General Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-748e, 11-766) is referred to in sections 30-306, 45-909, 45-910, 45-914.

§§ 15-711 to 15-713

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-719, 11-720, 11-722a, 11-749) are referred to in sections 45-909, 45-910, 45-914.

§ 15-714. Witness fees for attendance in Court of General Sessions

(a) The fees and travel allowances to be paid any witness attending in a criminal case in the District of Columbia Court of General Sessions shall be the same as those paid to witnesses who attend before the United States District Court for the District of Columbia.

* * * * *

(As amended Dec. 27, 1967, Pub. L. 90-226, § 803(a), title VIII, 81 Stat. 742.)

AMENDMENT

1967—Section 803(a) amended subsection (a) to read as above set out. For provisions of this subsection prior to this amendment see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for amendments made by this Act, see enumeration in note above, under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amend-

ments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 15-716. Advances to Court of General Sessions clerk for witness fees

The Board of Commissioners or its authorized representative may advance to the clerk of the District of Columbia Court of General Sessions upon requisition previously approved by the Board of Commissioners or its authorized representative, sums of money to be used for the payment of witness fees. (Dec. 23, 1963, 77 Stat. 536, Pub. L. 88-241, § 1, eff. Jan. 1, 1964; Dec. 27, 1967, Pub. L. 90-226, § 803(b), title VIII, 81 Stat. 742.)

AMENDMENT

1967—Section 803(b), Act Dec. 27, 1967, Pub. L. 90-226, amended section by striking out "not exceeding \$500 at any one time,".

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001,

22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

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TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 16.—PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS

Chapter 3.—ADOPTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11-1161.

§ 16-301. Jurisdiction; rules

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-210) is referred to in section 30-306.

§ 16-304. Consent

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Guardian ad litem

Refusal to appoint guardian ad litem for infant adoptee in adoption proceeding was not error where all essential facts concerning the child's welfare were presented by prospective adoptors and by department of public welfare which appeared as adoptee's legal guardian. *In re Adoption of a Female Infant* (D.C. App. 1968, 237 A. 2d 468).

In loco parentis

"In loco parentis" is different from adoption in that it is strictly temporary in nature rather than permanent. *A. Fuller v. G. Fuller* (D.C. App. 1968, 247 A. 2d 767).

At common law "in loco parentis" had reference to a person who has put himself in situation of lawful parent by assuming obligations incident to parental relation without going through formalities necessary to legal adoption. *Id.*

Prenuptial agreement

Former husband's assurance that prenuptial child of wife would be included as a part of family unit was at most inducement to persuade her to marry him and no more than offer to support her child in the same household and did not amount to either a promise or an agreement to legally adopt the child or to extend support beyond period of marriage. *A. Fuller v. G. Fuller* (D.C. App. 1968, 247 A. 2d 767).

Treatment by husband of wife's prenuptial child as his natural child was not tantamount to adoption and hus-

band was not obligated to support child after divorce from child's mother on theory of equitable adoption. *Id.*

Support as constituting adoption

Theory of adoption is based upon proposition that the child is wanted for its own sake, and not upon proposition that it is accepted incidentally as the result of marriage to the mother. *A. Fuller v. G. Fuller* (D.C. App. 1968, 247 A. 2d 767).

Taking prenuptial child of wife into family circle, did not effect adoption of child by husband or incur continuing obligation of support. *Id.*

§ 16-305. Petition for adoption

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Adoption procedures

Formal adoption procedures are for the benefit of the child and they may not be circumvented or substituted by other procedures. *A. Fuller v. G. Fuller* (D.C. App. 1968, 247 A. 2d 767).

§ 16-306. Notice of adoption proceedings

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 16-307. Investigation, report, and recommendation

NOTES TO DECISIONS

Guardian ad litem

Refusal to appoint guardian ad litem for infant adoptee in adoption proceeding was not error where all essential facts concerning the child's welfare were presented by prospective adoptors and by department of public welfare which appeared as adoptee's legal guardian. *In re Adoption of a Female Infant* (D.C. App. 1968, 237 A. 2d 468).

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-309.

§ 16-308. Investigations when prospective adoptee is adult or petitioner is spouse of natural parent

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-307.

§ 16-311. Sealing and inspection of records and papers

NOTES TO DECISIONS

Access to investigative report

Refusal to allow prospective adoptors' attorney access to investigate report in which department of public welfare recommended that petition for adoption be denied because of deterioration in prospective adoptors' marital relationship and serious personality defects in both of them was not an abuse of discretion where trial judge related to the attorney the findings and the information gathered from persons listed as references by prospective adoptors. *In re Adoption of a Female Infant* (D.C. App. 1968, 237 A. 2d 468).

§ 16-312. Legal effects of adoption

NOTES TO DECISIONS

Issue

Public policy, as expressed in this section would be followed, and thus a child adopted by a grandson 12 years after death of testatrix would be considered as "issue" within terms of a will where there was nothing within the four corners of the will which pointed to any preference by testatrix regarding adopted children and where there was no indication of intended discrimination. *The Riggs National Bank of Washington, D.C. v. J. V. Summerlin, Jr., et al.* (1969, 300 F. Supp. 1000).

"Issue" defined

Word "issue," as found in two wills which established testamentary trusts the income from which was payable to mother and her issue, included an adopted child of mother, in the absence of a contrary indication of testators' actual intent. *F. G. Johns, Jr., et al. v. E. Boardman Cobb et al.* (1968, 402 F. 2d 636, 131 U.S. App. D.C. 85).

§ 16-313. Child as including adopted person

NOTES TO DECISIONS

"Issue" defined

Word "issue," as found in two wills which established testamentary trusts the income from which was payable to mother and her issue, included an adopted child of mother, in the absence of a contrary indication of testators' actual intent. *F. G. Johns, Jr., et al. v. E. Boardman Cobb et al.* (1968, 402 F. 2d 636, 131 U.S. App. D.C. 85).

§ 16-314. Birth certificates

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—ATTACHMENT AND GARNISHMENT

CROSS REFERENCE

Federal restrictions on garnishment effective July 1, 1970, see title 15 U.S.C. § 1671 et seq.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15-320, 15-503.

SUBCHAPTER I.—ATTACHMENT AND GARNISHMENT GENERALLY

§ 16-501. Attachment before judgment; affidavit and bond

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-502, 16-503, 16-505, 16-512.

§ 16-502. Service of notice; publication

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-508, 16-511.

§ 16-506. Traversing affidavits; quashing writ of attachment; trial of issues

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-529.

§ 16-507. Property subject to attachment; liens; priorities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-572.

NOTES TO DECISIONS

Attachable funds or credits

Fund or credits must be actually due and ascertainable in amount in order to be subject to garnishment. *Cummings General Tire Co., etc. v. Volpe Construction Co., etc., et al.* (D.C. App. 1967, 230 A. 2d 712).

Where attachment failed because garnishee did not owe debtor any money at time of garnishment, attaching creditor could not prevail over subsequent attaching creditor who obtained attachment against the same garnishee for debt due the same debtor but at time when garnishee did owe money to debtor. *Id.*

§ 16-509. Attachment of personal property; undertaking by defendant or person in possession

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-510, 16-527.

§ 16-510. Release of property or credits from attachment; sufficiency of undertaking

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-527.

§ 16-511. Attachment of credits or partnerships interest; retention of property and credits by garnishee

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-515.

§ 16-520. Defending against the attachment; trial of issue

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-522, 16-529.

§ 16-524. Judgment generally; condemnation of attached property

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-529.

§ 16-525. Condemnation and sale of property; proceeds of sale under interlocutory order

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-524, 16-527.

§§ 16-526, 16-527

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 16-524.

§ 16-533. Attachment proceedings in Court of General Sessions

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-733) is referred to in sections 45-909, 45-910, 45-914.

SUBCHAPTER II.—ATTACHMENT AND GARNISHMENT AFTER JUDGMENT IN AID OF EXECUTION

§ 16-546. Attachment of credits

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-548.

§ 16-551. Defending against the attachment; trial of issues

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-553.

§ 16-552. Interrogatories to garnishee; oral examination

NOTES TO DECISIONS

Judgment of recovery against garnishee

In this case where garnishee appeared and opposed, the motion on jurisdictional grounds, the judgment creditor's motion for judgment of recovery, though garnishee had previously failed to answer the interrogatories, and where the garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with the garnishee, judgment of recovery should not be entered if, on further proceedings, it is shown that no additional wages became due judgment debtor from garnishee between receipt of writs and termination of debtor's employment and if there were otherwise cause to permit answer to be filed. *Metropolitan Roofing and Sheet Metal Co., Inc. v. Franklin Investment Co., Inc.* (D.C. App. 1969, 256 A. 2d 913).

§ 16-556. Judgment against garnishee

NOTES TO DECISIONS

Judgment of recovery against garnishee

In this case where garnishee appeared and opposed, the motion on jurisdictional grounds, the judgment creditor's motion for judgment of recovery, though garnishee had previously failed to answer the interrogatories and where the garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with the garnishee, judgment of recovery should not be entered if, on further proceedings, it is shown that no additional wages became due judgment debtor from garnishee between receipt of writs and termination of debtor's employment and if there were otherwise cause to permit answer to be filed. *Metropolitan Roofing and Sheet Metal Co., Inc. v. Franklin Investment Co., Inc.* (D.C. App. 1969, 256 A. 2d 913).

SUBCHAPTER III.—ATTACHMENT AND GARNISHMENT OF WAGES, ETC.

§ 16-571. Definition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-512, 16-582.

§ 16-572. Attachment of wages; percentage limitations; priority of attachments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-577.

§ 16-573. Employer's duty to withhold and make payments; percentage

NOTES TO DECISIONS

Judgment of recovery against garnishee

In this case where garnishee appeared and opposed, the motion on jurisdictional grounds, the judgment creditor's motion for judgment of recovery, though garnishee had previously failed to answer the interrogatories and where the garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with the garnishee, judgment of recovery should not be entered if, on further proceedings, it is shown that no additional wages became due judgment debtor from garnishee between receipt of writs and

termination of debtor's employment and if there were otherwise cause to permit answer to be filed. *Metropolitan Roofing and Sheet Metal Co., Inc. v. Franklin Investment Co., Inc.* (D.C. App. 1969, 256 A. 2d 913).

Chapter 7.—CRIMINAL PROCEEDINGS IN THE COURT OF GENERAL SESSIONS

§§ 16-701 to 16-703

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-715a, 11-748a, 11-748b, 11-748c, 11-748d) are referred to in sections 45-909, 45-910, 45-914.

§ 16-704. Process of criminal division; fees

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-748a) is referred to in sections 16-708, 45-909, 45-910, 45-914.

§ 16-705. Jury trial; trial by court

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-715a, 11-716a) is referred to in sections 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Right to jury trial

Length of a possible sentence is highly relevant to question whether a case should or should not be tried by a judge without a jury, and it is unfair for court which has denied a jury trial in the light of one maximum punishment to impose a sentence in the light of another. *M. Schnurman v. United States* (1967, 379 F. 2d 92, 126 U.S. App. D.C. 315).

Right to jury trial in sodomy case

If an offense is of a nature indictable at common law and thus tried by jury, that offense is triable by jury under the Constitution. *H. Gaithor v. United States* (D.C. App. 1969, 251 A. 2d 644).

Trial by jury is a right which must be afforded as to criminal offenses providing penalty so severe that it gives such offenses character of a common-law crime or of a major offense. *Id.*

A defendant, who is charged with solicitation for immoral and lewd purpose of committing oral sodomy, is not entitled to jury trial in view of fact such offense was not indictable at common law and that penalty imposed was not more than \$250 or imprisonment for not more than 90 days or both. *Id.*

Waiver of jury trial

A waiver of jury trial need not be made and announced by defendant personally but may be done effectually through counsel. *R. L. Thompkins v. United States* (D.C. App. 1969, 251 A. 2d 636).

It was not error to accept defendant's waiver of his right to jury trial on ground that court did not determine whether waiver was made intelligently and understandingly, where an announcement by counsel was made in defendant's presence of decision to waive and defendant was then advised of his right to jury trial and defendant expressed approval in open court of his counsel's announcement. *Id.*

§ 16-706. Enforcement of judgments; commitment upon non-payment of fine

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-715a, 11-748a) is referred to in sections 45-909, 45-910, 45-914.

§ 16-707. Disposition of fines

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-748a) is referred to in sections 16-708, 45-909, 45-910, 45-914.

§§ 16-708, 16-709

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-724a, 11-748a) are referred to in sections 45-909, 45-910, 45-914.

§ 16-710. Suspension of imposition or execution of sentence

NOTES TO DECISIONS

Conditions of probation

Probation which was conditioned on male defendant staying away from particular woman was proper to minimize chance of recurrence of crime committed and was within the scope of authority of trial judge. *C. Willis v. United States* (D.C. App. 1969, 250 A. 2d 569).

Probation conditions may be prescribed by court to minimize chance of recurrence of crime committed. *Id.*

Chapter 9.—DIVORCE, ANNULMENT, SEPARATION, SUPPORT, ETC.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11-1161.

§ 16-904. Grounds for divorce, legal separation and annulment

NOTES TO DECISIONS

Burden of proof

In a case where the wife admitted that separation from husband had become voluntary had, as the party challenging the continuity of the voluntariness, the burden of proving that she had changed her mind in husband's action for annulment or divorce. *H. E. Smith v. L. C. Smith* (D.C. App. 1969, 256 A. 2d 833).

Evidence—admissibility

A wife who stated that she was not agreeable to reconciliation with her husband on form entitled "Motion and Affidavit" which she filed in an action for separate maintenance was judicial admission and should have been admitted into evidence in husband's action for annulment or divorce to show that separation was voluntary. *H. E. Smith v. L. C. Smith* (D.C. App. 1969, 256 A. 2d 833).

— Sufficiency

Evidence was sufficient to sustain court's finding that the separation was voluntary and entitled husband to a divorce. *G. McDaniel v. J. McDaniel, Jr.* (D.C. App. 1969, 254 A. 2d 407).

Voluntary separation

Separation which initially constituted desertion by the husband became voluntary on the part of wife who filed a motion for separate maintenance in which she stated in pleadings that she was not agreeable to reconciliation and the husband who filed an action for annulment or divorce more than one year after wife filed separate maintenance action should have been granted a divorce when wife failed to show that separation had ceased to be voluntary. *H. E. Smith v. L. C. Smith* (D.C. App. 1969, 256 A. 2d 833).

§ 16-907. Legitimacy of issue of annulled marriage contracted while another in force

NOTES TO DECISIONS

Knowledge of mental condition

Woman who knew of man's commitment to mental institution at time of marriage was not entitled to annulment and the annulment should have been granted to the man. *A. D. Martin v. L. P. Martin* (D.C. App. 1968, 240 A. 2d 363).

§ 16-910. Dissolution of property rights; jurisdiction of court

NOTES TO DECISIONS

Apportionment of jointly held property

Under this section it is clear that the court has authority to award or to apportion between the parties, locally owned realty, in such manner as was found to be equitable, just and reasonable. *E. B. Argent v. S. E. Argent* (D.C. App. 1967, 233 A. 2d 142; rev'd and remanded 396 F. 2d 695).

Apportionment of property located outside of district

This section does not give the court authority over jointly held property in Maryland. *E. B. Argent v. S. E.*

Argent (D.C. App. 1967, 233 A. 2d 142; rev'd and remanded 396 F. 2d 695).

Construction

Difference between terms "award and apportion" as used in District of Columbia statute relating to court's authority to apportion property in divorce action and terms "determine and adjudicate" as used in statute relating to general jurisdictional grant to Domestic Relations Branch is simply difference between directly and indirectly affecting title to land. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

Effect of local divorce decree on title to property in Maryland

When divorce decree was entered here, the parties no longer held Maryland real estate as tenants by the entirety, but instead as tenants in common, by virtue of Maryland law. *E. B. Argent v. S. E. Argent* (D.C. App. 1967, 233 A. 2d 142; rev'd and remanded 396 F. 2d 695).

Jurisdiction

District of Columbia statute providing that on entry of decree of divorce all property rights of parties in joint tenancy or by entirety shall stand dissolved and court shall apportion property in equitable manner gave trial court no authority over jointly held property located in Maryland. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

Jurisdiction over foreign property

In a divorce action, District of Columbia court could not award and apportion property located in Maryland but it did have jurisdiction to determine and adjudicate rights of parties before it to such property and direct parties to execute such instruments as were necessary to effectuate that adjudication. *E. B. Argent v. S. E. Argent* (1968, 396 F. 2d 695, 130 U.S. App. D.C. 46).

District of Columbia courts are authorized to adjust and apportion property rights in property held jointly by parties to divorce action and must do so in same proceeding in which divorce decree is entered although their enforcement power as to property located in another state is limited to determination and adjudication of parties' rights. *Id.*

§ 16-911. Alimony pendente lite; suit money; enforcement; custody of children

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-912, 16-916.

§ 16-916. Maintenance of wife and minor children; maintenance of former wife; enforcement

NOTES TO DECISIONS

Attorney fees

In a case where divorced wife had to sue to compel husband to pay child support due, an award of attorney fee was proper under this section giving court such power when father fails or refuses to maintain his children, notwithstanding that husband may have based refusal on goodfaith misinterpretation of separation agreement. *W. N. McGehee, Jr. v. F. T. Maxfield* (D.C. App. 1969, 256 A. 2d 576).

Judgment of specific performance of support agreement

Trial court could not commit husband for his contemptuous failure to comply with order for specific performance of agreement to pay wife \$200 monthly for her support though husband was able to make such payments but deliberately refused to carry out his agreement and money judgments against him could not be collected by ordinary process. *C. M. O'Mara v. R. M. O'Mara* (D.C. App. 1968, 238 A. 2d 586).

Mortgage payments as maintenance

Mortgage payments which the court ordered husband to make on the marital abode in which wife still lives may constitute maintenance for the wife and the husband may be imprisoned for failure to make such payments. *H. E. Smith v. L. C. Smith* (D.C. App. 1969, 256 A. 2d 833).

Chapter 11.—EJECTMENT AND OTHER REAL PROPERTY ACTIONS

SUBCHAPTER I.—EJECTMENT

§ 16-1109. Recovery of mesne profits and damages; separate count

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1118.

§ 16-1116. Improvements; notice; good faith; directions to jury; measure of damages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-1109, 16-1117, 16-1118.

§ 16-1120. Election of plaintiff if value of improvements exceed damages

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1122.

SUBCHAPTER II.—PROCEEDINGS TO DISCOVER THE DEATH OF A TENANT FOR LIFE

§ 16-1151. Petition by person entitled to claim; form and contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1152.

§ 16-1152. Order to produce life tenant; service of order

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1153.

§ 16-1153. Failure to produce as ordered; subsequent proceedings; commissioners; presumption of death; right of possession

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1154.

Chapter 13.—EMINENT DOMAIN

SUBCHAPTER I.—GENERAL PROVISIONS

§ 16-1301. Jurisdiction of District Court

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-601) is referred to in sections 29-806, 40-804.

SUBCHAPTER II.—REAL PROPERTY FOR DISTRICT OF COLUMBIA

§ 16-1311. Condemnation proceedings by Board of Commissioners

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-601) is referred to in sections 16-1312, 29-806, 40-804.

NOTES TO DECISIONS

Construction

As used in eminent domain section of District of Columbia Code, the words "for any other municipal use authorized by Congress" are not subject to limitation of principle of statutory construction known as ejusdem

generis, as purpose of the section is to provide for acquisition of real property by District of Columbia for any governmental purpose. *D.C. Federation of Civic Associations et al. v. T. F. Airis et al.* (1967, 275 F. Supp. 533). But see decision of the court in 391 F. 2d 478.

The government of the District of Columbia has power to acquire real estate for any governmental purpose by purchase and if its does not succeed in acquiring them by purchase, then by condemnation. *Id.*

§ 16-1312. Jury; special list; qualifications; procedure for drawing

(a) For the purposes of this subchapter, the jury commission shall:

(1) prepare a special list of persons who have the qualifications of jurors, as prescribed by section 1865 of title 28, United States Code;

(2) from time to time, as may be necessary, write the names contained in the special list on separate and similar pieces of paper, which shall be so folded or rolled that the names can not be seen, and place them in a special box to be provided for the purpose;

(3) thereupon, seal and lock the special box, and, after thoroughly shaking the box, deliver it to the clerk of the United States District Court for the District of Columbia for safekeeping.

The box may not be unsealed or opened except by the jury commission.

(b) From time to time, as ordered by the court, the jury commission shall publicly break the seal of the box provided for by subsection (a) of this section, and proceed to draw therefrom by lot, without previous examination, the names of such number of persons as the court directs, to serve in condemnation proceedings brought pursuant to section 16-1311, and certify the names so drawn to the clerk of the court. At the time of each drawing, there shall be in the box the names of not less than one hundred persons possessing the qualifications prescribed by subsection (a) of this section.

(c) Except as provided by this section, chapter 121 of title 28, United States Code, in so far as it may be applicable, governs the qualifications of jurors in cases under section 16-1311 and the duties and conduct of the jury commissioners under this section.

(d) A person who has so served within one year may not serve as a condemnation juror under this section. (Dec. 23, 1963, 77 Stat. 572, Pub. L. 88-241, §1, eff. Jan. 1, 1964; Mar. 27, 1968, Pub. L. 90-274, § 103(d), 82 Stat. 63.)

AMENDMENTS

1968—Section 103(d), act Mar. 27, 1968, Pub. L. 90-274, amended section as follows:

In subsection (a) (1), substituted "section 1865 of title 28, United State Code" for "Section 11-2301, and who, in addition, are owners of real property in the District";

In subsection (c), substituted "chapter 121 of title 28, United States Code" for "chapter 23 of title 11".

EFFECTIVE DATE OF AMENDMENT AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "That Act [Repealing §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: "That this Act [Amending chapter 121 of title 28, U.S.C. Code and certain other sections of title 28, U.S. Code; Repealing sections 7-213a, 13-701, 11-2301, 11-2302 in part, 11-2303 to 11-2305, and 11-2307 to 11-2312 inclusive, and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the 'Jury Selection and Service Act of 1968'".

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-603) is referred to in sections 16-1313, 29-806.

§ 16-1313. Selection of jury; oath of jurors

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-604) is referred to in sections 29-806, 40-804.

§ 16-1314. Declaration of taking; contents; deposit; transfer of title; determination; interest

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-605) is referred to in sections 16-1315, 16-1316, 29-806.

§§ 16-1315, 16-1316

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 16-605) are referred to in section 29-806.

§ 16-1317. Objections to jurors; appraisement

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-606) is referred to in sections 16-1318, 16-1319, 29-806, 40-804.

§ 16-1318. Objections or exceptions to appraisement; new jury

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-607) is referred to in sections 29-806, 40-804.

§ 16-1319. Payment of award; transfer of title

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-608) is referred to in sections 16-1314, 29-806, 40-804.

§ 16-1320. Fixing time for return of verdict

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-609) is referred to in sections 29-806, 40-804.

§ 16-1321. Abandonment of proceedings; liability

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 16-610) is referred to in sections 29-806, 40-804.

SUBCHAPTER III.—EXCESS PROPERTY FOR DEVELOPMENT OF SEAT OF GOVERNMENT

§ 16-1331. Acquisition of property in excess of needs

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 16-1332. Sale of excess property; restrictions on use; fair market value; disposition of moneys

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-333.

§ 16-1336. Condemnation of excess real property by Board of Commissioners; payment of awards, damages, and costs; no assessments for benefits

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER IV.—REAL PROPERTY FOR UNITED STATES

§ 16-1353. Declaration of taking; contents; deposit; transfer of title; determination; interest

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-1354, 16-1355, 16-1360.

§ 16-1356. Setting date for trial

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1357.

§ 16-1357. Drawing of jurors, and selection of jury; qualifications

When the date for trial has been set, as provided by section 16-1356, the court shall thereupon order the jury commission to draw from the special box provided for by law the names of as many persons, not less than twenty, as the court directs, and to certify the names to the clerk of the United States District Court for the District of Columbia as a panel of prospective jurors. The persons so certified shall be thereupon summoned by the United States marshal for the District of Columbia to appear in the court on the day specially fixed for the trial of the cause. Before selecting or impaneling the jury, the court may cause a second, third, or other further list of prospective jurors to be drawn, certified and summoned in like manner. From the persons so certified and summoned, the court, after examination on oath and in open court as to their qualifications, shall select and impanel a jury of five capable and disinterested persons who have the qualifications of jurors as prescribed by law for the courts of the District of Columbia, and in addition thereto are not in the service or employment of the United States or of the District of Columbia. (Dec. 23, 1963, 77 Stat. 578, Pub. L. 88-241, § 1, eff. Jan. 1, 1964; Mar. 27, 1968, Pub. L. 90-274, § 103(e), 82 Stat. 63.)

AMENDMENT

1968—Section 103(e), act Mar. 27, 1968, Pub. L. 90-274, amended section by striking out “are real property owners in the District and” from the last sentence.

EFFECTIVE DATE OF AMENDMENT AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: “This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302), 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date.”

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: “That this Act [Amending chapter 121 of title 28, U.S. Code and certain other sections of title 28, U.S. Code; Repealing sections 7-213a, 13-701, 11-2301, 11-2302 in part, 11-2303 to 11-2305, and 11-2307 to 11-2312 inclusive, and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the ‘Jury Selection and Service Act of 1968’”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-1358, 16-1359, 16-1362.

§ 16-1358. Oath of jurors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1359.

§ 16-1359. Inspection of property by jury; presence of parties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-1360.

§ 16-1361. Verdict

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-1362, 16-1363.

Chapter 15.—FORCIBLE ENTRY AND DETAINER

§ 16-1501. Definition; summons

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-735, see also tables) is referred to in sections 15-318, 16-1502, 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Grounds for eviction

It was the intent of Congress, which directed enactment of District of Columbia housing code, that, while landlord might evict for any legal reason or for no reason at all, he was not free to evict tenant in retaliation for tenant's report of housing code violations to the authorities. *Y. C. Edwards v. N. Habib* (1968, 397 F. 2d 687, 130 U.S. App. D.C. 126).

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann et al., etc. v. R. B. Boozer et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

§ 16-1502. Service of summons

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-736) is referred to in sections 15-318, 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Motion to vacate default judgment

In a case where a complaint for possession of premises did not allege the type of tenancy, total rent due and owing or period during which rent was in default, and there was no showing that a notice to quit had been served upon the defendant and defendant testified that she never saw complaint and filed a motion to vacate default judgment 17 days after answer had been due and that she was common-law wife of defendant and had been living in premises for number of years, default judgment would be vacated. *M. Bevins v. B. F. Lewis* (D.C. App. 1969, 254 A. 2d. 404).

§ 16-1503. Judgment and execution for possession

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-737) is referred to in sections 15-318, 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann, et al., etc. v. R. B. Boozer et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

§ 16-1504. Certification to District Court upon plea of title; undertaking

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-738, see also tables) is referred to in sections 15-318, 45-909, 45-910, 45-914.

NOTES TO DECISIONS

Constitutionality

Statute requiring an undertaking with sufficient surety as condition precedent to certification to United States District Court of action for possession of real estate wherein defendant pleads title in himself, or in another under whom he claims, was not unconstitutional on grounds that as applied to particular defendant it required her to post undertaking which she was financially

unable to secure, and thus by reason of her indigency or lack of funds she was deprived of only defense against claim for possession. *T. G. Thompson v. S. Mazo* (D.C. App. 1968, 245 A. 2d 122).

Construction

Implicit in statute dealing with summary action for possession of realty is right of successful plaintiff to obtain recovery of mesne profits as adjunct to proceeding for determining title and possession. *T. J. Scheve et ano. v. L. H. Hollins et al.* (1968, 403 F. 2d 566, 131 U.S. App. D.C. 160).

Purpose of statute

Although statute requiring an undertaking with sufficient surety as condition precedent to certification to United States District Court of action for possession of real estate wherein defendant pleads title in himself, or in another under whom he claims, was designed to permit defendant to file plea of title and have question of title determined by court having jurisdiction to try title to real property, statute was also designed to protect plaintiff in such action if plea of title failed. *T. G. Thompson v. S. Mazo* (D.C. App. 1968, 245 A. 2d 122).

Recovery of damages

Plaintiffs who brought action in District of Columbia court of general sessions for possession of realty, and defendants claimed title to realty and filed a \$1,250 title bond under District of Columbia statute to pay all intervening damages and costs and reasonable intervening rent for premises, and case was certified to United States District Court for District of Columbia for determination of title issue, and defendants remained in possession for about 2 years, and reasonable rent for realty was \$140 per month, and district court found title in plaintiffs, were entitled to recover full bond amount of \$1,250 and were not limited to nominal damages. *T. J. Scheve et ano. v. L. H. Hollins et al.* (1968, 403 F. 2d 566, 131 U.S. App. D.C. 160).

§ 16-1505. Conclusiveness of judgment

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-739, see also tables) is referred to in sections 15-318, 45-909, 45-910, 45-914.

Chapter 17.—GAMING TRANSACTIONS

§ 16-1701. Invalidity of gaming contracts

REFERENCES IN TEXT

Chapters 1 to 10 of title 28 of the D.C. Code were repealed by act Dec. 30, 1963, Pub. L. 88-243. The same Public Law enacted the Uniform Commercial Code, set out as Subtitle I, of title 28, consisting of Articles 1 to 10.

§ 16-1702. Recovery of losses at gaming

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-1703, 16-1704.

Chapter 21.—JOINT CONTRACTS

§ 16-2101. Definition of joint and several contracts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-2102, 16-2103.

NOTES TO DECISIONS

Indispensable parties

An action for rent against tenant could not be dismissed for lack of indispensable parties, namely, the other tenants, since tenants were jointly liable for the rent and could be sued either jointly or separately. *A. P. Ostrow v. G. Smulkin, et al., etc.* (D.C. App. 1969, 249 A. 2d 520).

Chapter 23.—JUVENILE COURT PROCEEDINGS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 11-1526, 11-1551, 11-1553, 11-1555, 11-1583, 11-1584, 11-1586, 13-101.

SUBCHAPTER I.—JUVENILE DELINQUENCY PROCEEDINGS AND RELATED MATTERS

§ 16-2301. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1551.

NOTES TO DECISIONS

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the administrative action of suspending motor vehicle operator's permit of 17-year-old driver. *Id.*

§ 16-2302. Information regarding child; investigation; petition; contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1586, 16-2303.

NOTES TO DECISIONS

Adequacy of petition

The petition in this case which alleged briefly the facts which brought the juvenile within jurisdiction of the juvenile court, and notified him of the place, time and date of alleged unlawful conduct, the nature of the violation, the names of the alleged co-perpetrators of the assault and the name of the victim, and the name of intake officer who investigated the case, was adequate to apprise the juvenile of the nature and substance of proceeding against him and the juvenile was not prejudiced by any slight disparity between the allegations that he had assaulted victim with dangerous weapon and robbed victim and the proof which established that he had assaulted another who was with the victim. *In the Matter of J. E. Coward* (D.C. App. 1969, 254 A. 2d 730).

Custody, care and discipline

Under provisions of Juvenile Court Act that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, when removal from family is deemed necessary juvenile is not automatically to be committed to the receiving home; the juvenile court has duty to fashion appropriate disposition notwithstanding any failure by juvenile's representatives to make specific proposals. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

Under provisions of Juvenile Court Act that when a child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, commitment to receiving home should be only a last resort where no suitable alternative exists. *Id.*

Opportunity to defend

Should jurisdiction be found to rest on the three alternative statutory sections, questions of fair notice and opportunity to defend would be presented. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

Substitute for bail

Provisions of Juvenile Court Act directing disposition of juveniles coming under jurisdiction of juvenile court are adequate substitute for bail. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

§ 16-2303. Summons; notice; custody of child

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-2304, 16-2305.

§ 16-2304. Service of summons; time of hearing

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2305.

§ 16-2306. Taking child into custody; release to custody of parent, guardian, custodian, or probation officer; limitation on detention

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

NOTES TO DECISIONS

Appropriate detention arrangement

Although receiving home was only place of detention provided by commissioners for those awaiting disposition in Juvenile Court, if a psychiatric condition was seriously endangering health or perhaps life of juvenile, there would be jurisdiction in Juvenile Court to make an appropriate detention arrangement. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Construction

Provisions of Juvenile Court Act that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents are applicable prior to trial of juvenile as well as on final disposition. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

Custody, care and discipline

Under provisions of Juvenile Court Act that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, when removal from family is deemed necessary juvenile is not automatically to be committed to the receiving home; the juvenile court has duty to fashion appropriate disposition notwithstanding any failure by juvenile's representatives to make specific proposals. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

Under provisions of Juvenile Court Act that when a child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, commitment to receiving home should be only a last resort where no suitable alternative exists. *Id.*

Pretrial inquiry

Record disclosing that juvenile court judge after announcing that he was going to place juvenile in receiving home pending trial on charges of robbery and assault refused request of juvenile's attorney that juvenile be released on "some sort of bail" did not disclose that appropriate inquiry concerning pretrial custody had been made by juvenile court in order to secure for juvenile the custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

§ 16-2307. Hearing; exclusion of public; jury trial

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

NOTES TO DECISIONS

Court's duty

Trial judge has duty under Juvenile Court Act, where *parens patriae* principle justifies some tempering of adversarial nature of process, greater than in adversary

criminal trial to insure that child receives full benefits promised by statutory scheme. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Full investigation

Juvenile court is armed with broad statutory powers to conduct an appropriate inquiry to fashion dispositional decree tailored to meet peculiar needs of particular child when it is presented with substantial complaint concerning commitment. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

Substantial complaint

Where there is an explicit finding that infant needed psychological or psychiatric care to meet his needs and there was claim that infant was receiving no treatment, there was "substantial complaint" calling for appropriate inquiry by juvenile court. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

§ 16-2308. Determination and order of the Court

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

NOTICE TO DECISIONS

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the administrative action of suspending motor vehicle operator's permit of 17-year-old driver. *Id.*

Full investigation

Juvenile court is armed with broad statutory powers to conduct an appropriate inquiry to fashion dispositional decree tailored to meet peculiar needs of particular child when it is presented with substantial complaint concerning commitment. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

Substantial complaint

Where there is an explicit finding that infant needed psychological or psychiatric care to meet his needs and there was claim that infant was receiving no treatment, there was "substantial complaint" calling for appropriate inquiry. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

§ 16-2309. Modification or revocation of order; petition; return of child, or other action

NOTES TO DECISIONS

Change in law after commitment

Where interpretation of Juvenile Court Act, by appellate court which imposed duty on juvenile court to make appropriate inquiry with aim of providing individualized care and treatment of infants, was made subsequent to decision committing infant to custody of department of public welfare, juvenile court should have opportunity to conduct full hearing and make its determination in light of new decision. *In the Matter of J. G. Elmore* (1967, 382 F. 2d 125, 127 U.S. App. D.C. 176).

§ 16-2313. Place of detention of children

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 16-2314. Applicability to adult cases; offenses and penalties; jury trial

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2383.

§ 16-2316. Construction and purpose

NOTES TO DECISIONS

Attorney's duties and functions

Child's lawyer should search for plan or range of plans which may persuade court that welfare of child and safety of community can be served without waiver. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Counsel desiring not to demand waiver hearing in juvenile court after consultation with client should indicate the consultation by letter to court. *Id.*

Congressional objective

Congressional objective in passing Juvenile Court Act providing that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly possible equivalent to that which should have been given him by his parents, comprehends psychiatric care in appropriate cases. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Purpose stated in Juvenile Court Act to give juvenile in custody the care, as nearly as possible equivalent to that which should have been given by his parents, establishes not only an important policy objective, but, in an appropriate case, a legal right to a custody that is not inconsistent with the *parens patriae* premise of the law. *Id.*

Congressional purpose in passing Juvenile Court Act was to establish a professionally staffed, specialized court, equipped with broad powers to implement rehabilitative purposes of Act, and Juvenile Court is vested with broad range of discretion in light of its professional expertise. *Id.*

Construction

Presumption of statutory framework is that juveniles are to be treated as juveniles and full investigation is required before waiver to adult court. All possible dispositions short of waiver must be explored by which welfare of child and best interests of district may be secured. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Juvenile court legislation rests, in various aspects, on premise that state is acting as *parens patriae*, that it is undertaking in effect to provide for child the kind of environment he should have been receiving at home, and that it is because of this that appropriate officials, while subject to requirement that juvenile proceedings must not be arbitrary or unfair, are permitted to take and retain custody of child without affording him all various procedural rights available to adults suspected of crime. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Court's duty

Court in a waiver proceedings from juvenile court to district court has duty to utilize its facilities, personnel and expertise for proper determination of waiver issue. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Juvenile court has duty to accompany waiver order with a statement of reasons or considerations sufficient to demonstrate full investigation and to show that ques-

tion has received careful consideration and must set forth basis for order with sufficient specificity to permit meaningful review. *Id.*

Custody, care and discipline

Under provisions of Juvenile Court Act that when child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, when removal from family is deemed necessary juvenile is not automatically to be committed to the receiving home; the juvenile court has duty to fashion appropriate disposition notwithstanding any failure by juvenile's representatives to make specific proposals. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

Under provisions of Juvenile Court Act that when a child is removed from his own family, court shall secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given him by his parents, commitment to receiving home should be only a last resort where no suitable alternative exists. *Id.*

Full investigation

Juvenile court's decision in waiver proceeding that facilities currently available to juvenile court offered no promise of rehabilitation did not adequately show that required full investigation had been made. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Jurisdiction

Juvenile Court has jurisdiction to enter order concerning child in its custody *pendente lite*, pending the disposition on the merits. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Jurisdiction of the Juvenile Court is comprehensive and is to be taken as attaching at the earliest stage necessary to implement the broad rehabilitative purposes of the law. *Id.*

Substitute for bail

Provisions of Juvenile Court Act directing disposition of juveniles coming under jurisdiction of juvenile court are adequate substitute for bail. *W. R. Fulwood v. W. Stone* (1967, 394 F. 2d 939, 129 U.S. App. D.C. 314).

Treatment of juvenile in "interim" custody

Where claim is presented to Juvenile Court by juvenile in custody alleging a need for treatment which is not being furnished, the fact that the custody is "interim" as opposed to "final" does not end the matter, and Juvenile Court, when presented with a substantial complaint, should make appropriate inquiry to insure that statutory criteria, as applied to that particular juvenile, are being met, and the depth and scope of such inquiry will vary with the case. *E. Creek Jr. v. W. J. Stone* (1967, 379 F. 2d 106, 126 U.S. App. D.C. 329).

Waiver

Where juvenile's counsel waived hearing without consultation with client in connection with transfer from juvenile court to district court by letter and telephone conversation and decision of court did not show that it made full investigation before ordering waiver, waiver was improper. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

Only after all rehabilitative possibilities have been canvassed is it ever proper to waive jurisdiction to district court from juvenile court. *Id.*

Waiver of jurisdiction in case of mentally ill person

Waiver provision of Juvenile Court Act is not excluded from the fundamental philosophy of *parens patriae* which underlies the statute. *M. A. Kent, Jr. v. United States* (1968, 401 F. 2d 408, 130 U.S. App. D.C. 343).

Social philosophy underlying Juvenile Court Act precluded waiver by juvenile court of juvenile afflicted with serious mental illness, since such waiver was not necessary for protection of society and was not conducive to juvenile's rehabilitation. *Id.*

Withdrawal of treatment as a juvenile

Treatment as a juvenile may be withdrawn pursuant to waiver proceedings only after full investigation. *D. V. Haziel v. United States* (1968, 404 F. 2d 1275, 131 U.S. App. D.C. 298).

SUBCHAPTER II.—PATERNITY PROCEEDINGS

§ 16-2341. Definitions

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2381.

§ 16-2344. Commencement of proceeding; complaint

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2345.

NOTES TO DECISIONS

Prima facie case

Decision that district had failed to establish prima facie case of paternity against defendant was not erroneous as matter of law. *District of Columbia v. T. Stovall, Jr.* (D.C. App. 1969, 253 A. 2d 541).

§ 16-2345. Apprehension of accused

NOTES TO DECISIONS

Constitutionality

Constitutional guaranty of right to speedy trial in all criminal prosecutions does not apply to paternity cases. *District of Columbia v. W. D. Howie and D. Jones* (D.C. App. 1967, 230 A. 2d 715).

Dismissal because of delay

Defendants in paternity proceedings were not entitled to dismissal of proceedings because of delay due to court's congested docket where records did not disclose that either defendant objected to continuance or made demand for speedy preliminary hearing. *District of Columbia v. W. D. Howie and D. Jones* (D.C. App. 1967, 230 A. 2d 715).

Filing of complaint as tolling of statute

Filing of complaint is not sufficient to stop running of time limitation in statute regarding proceedings to establish paternity unless such filing is followed by issuance of summons without reasonable delay. *District of Columbia v. W. D. Howie and D. Jones* (D.C. App. 1967, 230 A. 2d 715).

"Forthwith", within statute providing that upon filing of complaint in paternity proceedings case should be calendared forthwith means without unreasonable delay, and does not mean immediately. *Id.*

Procedure

Procedure whereby initial appearance in court in paternity proceedings partakes of nature of arraignment and case is then continued for preliminary hearing either because parties are not prepared for hearing or court schedule will not permit it is proper. *District of Columbia v. W. D. Howie and D. Jones* (D.C. App. 1967, 230 A. 2d 715).

Unreasonable delay in issuance of summons

Delay of thirty-four days and forty days, respectively, between filing of complaint and issuance of summons was not unreasonable and therefore filing of complaints stopped running of one year statute of limitations applicable in cases where father ceases making contributions to support of child. *District of Columbia v. W. D. Howie and D. Jones* (D.C. App. 1967, 230 A. 2d 715).

Essential requirement under statute regarding establishment of paternity is that upon filing of complaint defendant be notified without unreasonable delay of pendency of charge against him and nature of the charge. *Id.*

§ 16-2347. Blood tests

NOTES TO DECISIONS

Blood tests

Where defendant's request for blood test was made at trial in bastardy proceeding after all evidence had been heard and in summation by counsel for defendant and no request for blood test had been made in seven months' period since counsel for defendant had entered an appearance, denial of request for blood test was not an abuse of discretion. *R. Minor, Jr. v. District of Columbia* (D.C. App. 1968, 241 A. 2d 196).

Granting or denial of request for blood test in paternity case is discretionary with court. *Id.*

§ 16-2349. Judgment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2351.

§ 16-2350. Support payments

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-461.

§ 16-2353. New birth record upon marriage of natural parents

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissions, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 16-2354. Reports to Director of Public Health

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1586.

§ 16-2355. Applicability of sections relating to desertion on nonsupport

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1586, 16-2381.

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS

§ 16-2381. Payments for support and maintenance under section 22-903 to 22-905; voluntary payments; disbursement

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1586, 16-2351.

Chapter 25.—CHANGE OF NAME

§ 16-2502. Notice; contents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2503.

Chapter 27.—NEGLIGENCE CAUSING DEATH

§ 16-2701. Liability; damages; prior recovery as precluding action

NOTES TO DECISIONS

Collateral estoppel

Adverse judgment in suit by widow, as sole beneficiary, to collect on policy which was payable only if deceased had sustained injury through external violent and accidental means, rendered after evidence disclosed that deceased had suffered a stroke independent of and immediately prior to automobile collision, did not collaterally estop widow, as administratrix of estate of deceased, from

bringing an action on her own behalf and behalf of her minor children for wrongful death of deceased against owner and driver of taxicab with which deceased's automobile had collided. *V. Smith et al. v. J. W. Hood et ano.* (1968, 396 F. 2d 692, 130 U.S. App. D.C. 43).

Doctrine of collateral estoppel does not undercut principle that person whose rights were not at issue in prior proceeding is not precluded by judgment therein. *Id.*

Construction

Wrongful Death Act creates a new right of action, upon death of injured person, for benefit of his next of kin. *P. Wharton and L. Wharton, etc. v. G. L. Jones, et al.* (1968, 285 F. Supp. 634).

Reduction of verdict

District of Columbia wrongful death act empowers trial court to act sua sponte in exercise of its sound discretion to order reduction of verdict, without time limitation, and authorizes reduction of amount of damages directly without necessity of requiring remittitur as condition to denial of new trial. *S. A. Thomas as the administrator etc., and J. F. Wynn, Jr. v. Potomac Electric Power Company and District of Columbia* (1967, 266 F. Supp. 687).

Award of \$155,000 for death of 26-year-old father of two who had recently graduated from college and was planning to work as teacher was excessive where it represented amount shown by actuarial testimony to be his probable future earnings in teaching profession, reduced to present worth, without reduction in light of vicissitudes of fortune, buffetings of fate, and uncertainties of life and health, and would be reduced to \$90,000. *Id.*

Separate and independent claims

Negligent conduct resulting in death may generate simultaneously two independent bases for action, one under the Survival Act and the other under the Wrongful Death Act, upon each of which damages may be sought. *W. J. Emmett, Administrator, etc. v. Eastern Dispensary and Casualty Hospital, et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Negligent act causing death can give rise simultaneously to separate and independent claims under Wrongful Death Act and under Survival Act. *P. Wharton and L. Wharton etc. v. G. L. Jones et al.* (1968, 285 F. Supp. 634).

Tolling of statute

Pendency of personal injury action under Survival Act does not toll statute of limitations on a death claim. *P. Wharton and L. Wharton etc. v. G. L. Jones et al.* (1968, 285 F. Supp. 634).

Pendency of wrongful death action did not toll statute of limitations on claim under Survival Act. *Id.*

§ 16-2702. Party plaintiff; statute of limitations

NOTES TO DECISIONS

Collateral estoppel

Adverse judgment in suit by widow, as sole beneficiary, to collect on policy which was payable only if deceased had sustained injury through external violent and accidental means rendered after evidence disclosed that deceased had suffered a stroke independent of and immediately prior to automobile collision, did not collaterally estop widow, as administratrix of estate of deceased, from bringing an action on her own behalf and behalf of her minor children for wrongful death of deceased against owner and driver of taxicab with which deceased's automobile had collided. *V. Smith et al. v. J. W. Hood et ano.* (1968, 396 F. 2d 692, 130 U.S. App. D.C. 43).

Tolling of statute

Fraudulent concealment of information moving party needs in order to determine whether there is a litigable dispute tolls the running of statute of limitations on death action. *W. J. Emmett, Administrator, etc. v. Eastern Dispensary and Casualty Hospital et al.* (1967, 396 F. 2d 931, 130 U.S. App. D.C. 50).

Statute of limitations on filing wrongful death and survival action was tolled by unprivileged failure of physician and hospital to permit decedent's son to inspect decedent's medical records. *Id.*

Chapter 29.—PARTITION AND ASSIGNMENT OF DOWER

SUBCHAPTER II.—ASSIGNMENT OF DOWER; PARTIES TO PARTITION PROCEEDINGS; SALE OF PROPERTY DISCHARGED FROM DOWER OR SPOUSE'S INTESTATE SHARE

§ 16-2921. Appointment of commissioners; cases of partition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-2922.

Chapter 31.—PROBATE COURT PROCEEDINGS

§ 16-3103. Summons; failure to appear or give evidence

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3107.

§ 16-3104. Sequestration where person fails to appear

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-3103, 16-3105 to 16-3107.

§ 16-3105. Plenary proceeding; refusal to answer as required

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3106.

§ 16-3107. Enforcement of judgments, orders and decrees; application of property sequestrated

NOTES TO DECISIONS

Title to property

There is no restriction upon district court, sitting in probate, which limits its power to adjudicate right to possession of personalty. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

§ 16-3112. Arbitration; exceptions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3102.

Chapter 35.—QUO WARRANTO

§ 16-3502. Parties who may institute; ex rel. proceedings

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3503.

Chapter 37.—REPLEVIN

SUBCHAPTER I.—GENERAL PROVISIONS

§ 16-3706. Publication against defendant

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3707.

§ 16-3708. Motion for return of property; procedure; objection to sufficiency of security

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 16-3709, 16-3738.

SUBCHAPTER II.—REPLEVIN IN COURT OF GENERAL SESSIONS

§ 16-3731. Jurisdiction; form of complaint

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-725) is referred to in sections 16-3732, 16-3733, 45-909, 45-910, 45-914.

§§ 16-3732, 16-3733

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-725) are referred to in sections 45-909, 45-910, 45-914.

§ 16-3734. Failure of officer to obtain possession

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-726) is referred to in sections 45-909, 45-910, 45-914.

§ 16-3735. Publication against defendant

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-727) is referred to in sections 16-3736, 45-909, 45-910, 45-914.

§§ 16-3736 to 16-3740

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 11-727, 11-729, 11-730, 11-731, 11-732) are referred to in sections 45-909, 45-910, 45-914.

Chapter 39.—SMALL CLAIMS AND CONCILIATION
PROCEDURE IN COURT OF GENERAL SESSIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 13-101.

§ 16-3902. Commencement of action; form of state-
ment; preparation by clerk; notice and service;
costs; default; memorandum to plaintiff

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-3906.

TITLE 17—REVIEW

Chapter 1.—UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

§ 17-101. Appeal from District of Columbia Court of Appeals; filing, form and contents of petition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-1510 and 17-102.

§§ 17-102 to 17-104

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1-1510.

Chapter 3.—DISTRICT OF COLUMBIA COURT OF APPEALS

§ 17-301. Applications for allowance of appeals from certain Court of General Sessions judgments; hearing; effect of denial

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(b) The application provided for by subsection (a) of this section shall be filed in the District of Columbia Court of Appeals within the time limit prescribed by section 17-307(b), and shall be promptly presented by the clerk of that court to three judges thereof for their consideration. When any one of them is of the opinion that the appeal should be allowed, the appeal shall be recorded as granted, and the case set down for hearing on appeal. It shall be given a preferred status on the calendar, and heard in the same manner as other appeals in the court. When the three judges are of the opinion that the appeal should be denied, the denial shall stand as an affirmance of the judgment of the trial court, and there shall be no further appeal. (Dec. 23, 1963, 77 Stat. 613, Pub. L. 88-241, § 1, eff. Jan. 1, 1964; Dec. 8, 1967, Pub. L. 90-178, § 2, 81 Stat. 545.)

AMENDMENT

1967—Section 2, Act Dec. 8, 1967, Pub. L. 90-178, amended subsection (b) as follows:

(1) In the first sentence struck out the words, "the chief judge and the associate judges" and inserted in lieu the words, "three judges".

(2) In the fourth sentence struck out the words, "all the judges are of the opinion that an" and inserted in lieu "the three judges are of the opinion that the".

§ 17-302. Regulations of appeals; record; costs

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-767) is referred to in section 30-306.

§ 17-303. Appeals from administrative orders and decisions; petition; record; procedure

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 17-304, 40-302, 45-1409, 47-2101.

§ 17-304. Stay upon application for review of, or pending appeal from, administrative order or decision

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-302, 45-1409, 47-2101.

§ 17-305. Scope of review

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-767) is referred to in sections 16-2315, 30-306, 40-302, 45-1409, 47-2101.

NOTES TO DECISIONS

Authority of appellate court

On an appeal from a judgment awarding absolute divorce, function of the court of appeals is limited to reviewing the record and the court of appeals may not disturb trial court's ultimate findings and conclusions unless they are clearly erroneous or without evidence to support them. *S. W. Springer v. R. C. Springer* (D.C. App. 1969, 248 A. 2d 822).

Credibility of witnesses on review

Credibility of witnesses, upon which the validity of the arrest stands or falls in this case, was a matter within the province of the jury to decide as trier of fact. *R. G. Burroughs v. United States and District of Columbia* (D.C. App. 1967, 236 A. 2d 319).

Evidence—Sufficiency

The finding of the trial court in action against the employer that former employee whose employment had been terminated without notice was entitled to recover shortages in back pay from employer but was not entitled to a bonus or to two weeks' separation pay was supported by evidence. *H. T. Freas v. N. M. Gitomer* (D.C. App. 1969, 256 A. 2d 573).

The finding of the trial court that parking lot was liable for damages to patron's automobile was supported by substantial evidence and was not clearly erroneous, and this is the limit of the scope of court's review. *Parking Management, Inc. v. N. C. Pride* (D.C. App. 1969, 256 A. 2d 899).

The finding of the trial court that lessee terminated lease prematurely by announcing it had no further need for the car and returning it to lessor was supported by substantial evidence and was not clearly erroneous. *Stone Heating & Ventilating Co., Inc. v. Anacosta Leasing Corp.* (D.C. App. 1969, 256 A. 2d 923).

In this case, the court held, that there was substantial evidence to support the hearing officer's finding that the operator involved in an accident had been driving under influence of alcohol and hearing officer's resulting restriction of operator's permit, though operator apparently suffered head injury which he claimed was cause of confusion and slow reaction. *D. T. Griffin v. W. D. Heath etc.* (D.C. App. 1969, 257 A. 2d 488).

The record in this case authorized finding that plaintiff had not sustained burden of proof by preponderance of evidence that deceased in fact orally promised to repay sums of money paid to or on behalf of deceased during her life. *B. M. Johns v. W. M. Speed etc.* (D.C. App. 1969, 257 A. 2d 497).

Evidence, in divorce action, sustained finding that husband had not committed any acts of cruelty against wife

or otherwise by his actions contributed to their separation. *S. W. Springer v. R. C. Springer* (D.C. App. 1969, 248 A. 2d 822).

Photographic evidence

Photographs of curb condition which caused one plaintiff to fall and sustain injuries were sufficient basis for trial court sitting without jury to infer constructive notice by the District of Columbia and supported recovery on part of plaintiffs. *District of Columbia v. R. Megginson et ano.* (D.C. App. 1969, 250 A. 2d 571).

Questions of fact

Court of appeals may not reverse trial court sitting without a jury on factual matters unless it appears that judgment is plainly wrong or without evidence to support it. \$3,265.28 in *United States Currency, et al. v. District of Columbia* (D.C. App. 1969, 249 A. 2d 516).

On appeal from my jury's verdict, issues of fact must be resolved in appellee's favor. *E. L. Prather v. J. B. Hill* (D.C. App. 1969, 250 A. 2d 690).

Scope of review

Scope of review of Court of Appeals in negligence case is to determine whether trial court's finding was supported by substantial evidence and was not clearly erroneous. *C. Parello, etc., et al. v. A. C. Lomax* (D.C. App. 1969, 253 A. 2d 463).

Sufficiency of evidence to sustain verdict

In suit by a sociologist to recover payment for services performed at defendant's request, the jury's verdict was supported by the record that she had prepared a research prospectus for compensation at defendant's request, and that defendant had refused to pay reasonable compensation for her work, and was not clearly erroneous, even though there was conflicting evidence. *D. C. Thompson, t/a Associated etc. v. J. Jackson* (D.C. App. 1969, 256 A. 2d 408).

The testimony of defendant that plaintiff offered to install snow guards on roof of church building without charge as part of promotional scheme established a sub-

stantial basis for finding that no purchase contract, express or implied, was formed between parties. *J. Zaleski, t/a etc. v. Congregation of the Sacred Hearts of Jesus and Mary etc.* (D.C. App. 1969, 256 A. 2d 424).

In case where boat owner was attempting to sell his boat for \$40,000 and told broker that if broker sold the boat, he would be paid, the broker was entitled to commission when the boat was sold to a buyer who had been procured by broker, though boat was sold for \$27,500, after negotiations between boat owner and buyer. *W. L. Bowles v. T. R. Hogans, Jr.* (D.C. App. 1969, 256 A. 2d 407).

§ 17-306. Determination of appeals

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-767) is referred to in sections 16-2315, 30-306, 40-302, 45-1409, 47-2101.

NOTES TO DECISIONS

Judgment of recovery against garnishee

In this case where garnishee appeared and opposed, the motion on jurisdictional grounds, the judgment creditor's motion for judgment of recovery, though garnishee had previously failed to answer the interrogatories, and where the garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with garnishee, judgment of recovery should not be entered if, on further proceedings, it is shown that no additional wages became due judgment debtor from garnishee between receipt of writs and termination of debtor's employment and if there were otherwise cause to permit answer to be filed. *Metropolitan Roofing and Sheet Metal Co., Inc. v. Franklin Investment Co., Inc.* (D.C. App. 1969, 256 A. 2d 913).

§ 17-307. Time for taking or applying for allowance of appeals

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 11-767) is referred to in sections 16-2315, 17-301, 17-303, 30-306, 40-302, 45-1409, 47-2101.

PART III

DECEDENTS' ESTATES AND FIDUCIARY RELATIONS

TITLE 18. WILLS AND PROBATE OF WILLS.

TITLE 19. DESCENT AND DISTRIBUTION.

TITLE 20. ADMINISTRATION OF DECEDENTS' ESTATES.

TITLE 21. FIDUCIARY RELATIONS AND THE MENTALLY ILL.

TITLE 18.—WILLS AND PROBATE OF WILLS

Chapter 1.—GENERAL PROVISIONS

§ 18-101. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-101.

§ 18-103. Execution of written will; attestation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18-105, 18-109.

§ 18-107. Nuncupative wills

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18-103, 18-109.

§ 18-109. Revocation of wills; revival

NOTES TO DECISIONS

Copies of former wills

The court held that it is the clear import of existing statutes, that copies of former wills, whether executed or unexecuted, must be made available to the court under threat of criminal penalty. *C. H. Doherty, Sr., et al. v. V. Fairall et al.* (1969, 413 F. 2d 381, — U.S. App. D.C. —).

§ 18-111. Withholding will

NOTES TO DECISIONS

Copies of former wills

The court held that it is the clear import of existing statutes, that copies of former wills, whether executed or unexecuted, must be made available to the court under threat of criminal penalty. *C. H. Doherty, Sr., et al. v. V. Fairall et al.* (1969, 413 F. 2d 381, — U.S. App. D.C. —).

§ 18-112. Taking and carrying away, or destroying, mutilating, or secreting will

NOTES TO DECISIONS

Copies of former wills

The court held that it is the clear import of existing statutes, that copies of former wills, whether executed or unexecuted, must be made available to the court under threat of criminal penalty. *C. H. Doherty, Sr., et al. v. V. Fairall et al.* (1969, 413 F. 2d 381, — U.S. App. D.C. —).

Chapter 5.—PROBATE OF WILLS

§ 18-501. Notice of petition for probate

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18-502, 18-504.

§ 18-502. Notice to nonresidents and unfound residents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18-501, 18-503, 18-504.

§ 18-503. Notice to unknown kin or heirs at law

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18-501, 18-504.

§ 18-508. Caveat; will not to be probated while issues pending

NOTES TO DECISIONS

Caveat by executor

Executor appointed by will who had power of appointment regarding certain property had the requisite interest to caveat codicil reducing shares of residuary legatees. *E. McLain v. American Security and Trust Co.* (1968, 392 F. 2d 818, 129 U.S. App. D.C. 213).

Party in interest

The right conferred upon nephew by will and withdrawn from him by codicil to serve as executor and receive commissions therefor did not make him a "party in interest" within District of Columbia Code provision that if a party in interest files verified caveat setting forth facts inconsistent with validity of will, the will may not be admitted to probate until the issues are determined. *P. McLain and E. McLain v. American Security and Trust Co.* (1967, 265 F. Supp. 467; rev'd 392 F. 2d 818).

Testatrix' sister whose claim upon estate would be no different if codicil were set aside or sustained was not entitled to caveat the codicil under District of Columbia Code provision that if party in interest files verified caveat setting forth facts inconsistent with validity of will the will may not be admitted until the issues are determined. *Id.*

An estate of a decedent should not be subjected to the trouble and expense of an attack on a testamentary writing except by one who, if the attack prove successful, would have some claim upon the estate different from what he would have if the attack prove unsuccessful. *Id.*

TITLE 19.—DESCENT AND DISTRIBUTION

Chapter 1.—RIGHTS OF SURVIVING SPOUSE AND CHILDREN

§ 19-101. Family allowance; construction; penalties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-1325, 20-1705, 20-2101.

§ 19-102. Dower; quarantine; curtesy abolished

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 18-201a) is referred to in sections 19-106, 30-201.

§ 19-112. Devise or bequest to spouse

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19-113.

§ 19-113. Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19-114.

NOTES TO DECISIONS

Claims of creditors against spendthrift trust

In a case involving the beneficiary of a spendthrift trust, the court held that the primary purpose of such a trust was to assure that the beneficiary will be provided for, independent of his own improvidence and not necessarily to immunize the income therefrom for the necessities of life. *American Security and Trust Co. v. F. Utley* (1967, 382 F. 2d 451, 127 U.S. App. D.C. 235).

Equitable apportionment of estate taxes

Purpose of the marital deduction provision does not modify meaning of District of Columbia statute whereby dissenting widow can take one-third of surplus after debts, and hence the amount of property received by widow's election, and thus the amount eligible for marital deduction, was a portion of the surplus remaining after deducting entire amount of estate taxes, in view of District of Columbia rule rejecting doctrine of general equitable apportionment of estate taxes. *R. H. DelMar et al. v. United States* (1968, 390 F. 2d 466, 129 U.S. App. D.C. 51).

Congress adopted the marital deduction to provide opportunity for equalization of the tax treatment of estates in common law and community property states. *Id.*

§ 19-114. Rights of surviving spouse if there is no renunciation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 19-112, 19-113.

Chapter 3.—INTESTATES' ESTATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 20-1328, 20-1901, 20-2102.

§ 19-301. Course of descents generally

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14-504, 19-114, 19-317.

§ 19-302. When surviving spouse entitled to whole

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14-504, 19-114.

§ 19-303. When surviving spouse entitled to one-third

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14-504, 19-114.

NOTES TO DECISIONS

Equitable apportionment of estate taxes

Purpose of the marital deduction provision does not modify meaning of District of Columbia statute whereby dissenting widow can take one-third of surplus after debts, and hence the amount of property received by widow's election, and thus the amount eligible for marital deduction, was a portion of the surplus remaining after deducting entire amount of estate taxes, in view of District of Columbia rule rejecting doctrine of general equitable apportionment of estate taxes. *R. H. DelMar et al. v. United States* (1968, 390 F. 2d 466, 129 U.S. App. D.C. 51).

Congress adopted the marital deduction to provide opportunity for equalization of the tax treatment of estates in common law and community property states. *Id.*

§ 19-304. When surviving spouse entitled to one-half

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19-114.

NOTES TO DECISIONS

Federal estate tax marital deduction

Where decedent died intestate survived by her husband, two grandnephews, and six nieces, and surviving husband was entitled to one-half of estate under District of Columbia law, and such one-half qualified for federal estate tax marital deduction, share of husband was not to bear any part of federal estate tax. *In the Matter of the Estate of F. W. Collins* (1967, 269 F. Supp. 633).

§ 19-319. Advancements

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19-307.

Chapter 7.—ESCHEAT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 20-1328, 20-1901.

§ 19-701. Escheatment generally

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1-906, 19-305.

NOTES TO DECISIONS

Descent and distribution

On the basis of the majority rule in the District, testator's attempt to disinherit his caveator brothers and their heirs was ineffective, since he made no gift over of the forfeited estate. *J. C. Wilkes, Trustee etc. v. E. L. Freer et al.* (1967, 271 F. Supp. 602).

TITLE 20.—ADMINISTRATION OF DECEDENTS' ESTATES

Chapter 3.—EXECUTORS AND ADMINISTRATORS

SUBCHAPTER I.—EXECUTORS

§ 20-301. Letters testamentary; oath; corporations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-306.

NOTES TO DECISIONS

Refusal of letters to nominated executors

Probate court may refuse letters testamentary to nominated executors only when they are expressly disqualified by statute. *H. M. Berryman et al. v. The Riggs National Bank, etc.* (1968, 401 F. 2d 993, 131 U.S. App. D.C. 42).

Compliance with statute relating to competency of person to serve as executor is what is contemplated by the terms "legally competent" as used in statute requiring issuance of letters testamentary to executor named in will if he is legally competent. *Id.*

Testator's choice

Testator's choice should be granted letters testamentary unless he is disqualified under statute relating to competency of person to serve as executor or administrator. *H. M. Berryman et al. v. The Riggs National Bank, etc.* (1968, 401 F. 2d 993, 131 U.S. App. D.C. 42)

§ 20-302. Bond of executor

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-301, 20-304.

§ 20-303. Bonds for debts only; removal of executor for waste

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-304, 20-353.

§ 20-304. Special bond of executor

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-333, 20-353, 20-701, 20-702.

SUBCHAPTER II.—ADMINISTRATORS

§ 20-332. Oath and bond of administrator

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-333.

§ 20-333. Special bond in intestacy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-353, 20-701, 20-702.

§ 20-334. Persons entitled to administer; order of preference

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-339.

SUBCHAPTER III.—MISCELLANEOUS PROVISIONS RELATING TO EXECUTORS AND ADMINISTRATORS

§ 20-351. Competency to serve as executor or administrator; determination

NOTES TO DECISIONS

Refusal of letters to nominated executors

Probate court may refuse letters testamentary to nominated executors only when they are expressly disqualified

by statute. *H. M. Berryman et al. v. The Riggs National Bank etc.* (1968, 401 F. 2d 993, 131 U.S. App. D.C. 42).

Compliance with statute relating to competency of person to serve as executor is what is contemplated by the terms "legally competent" as used in statute requiring issuance of letters testamentary to executor named in will if he is legally competent. *Id.*

Testator's choice

Testator's choice should be granted letters testamentary unless he is disqualified under statute relating to competency of person to serve as executor or administrator. *H. M. Berryman et al. v. The Riggs National Bank etc.* (1968, 401 F. 2d 993, 131 U.S. App. D.C. 42).

§ 20-359. Accounting by representative of deceased executor or administrator; enforcement

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1710.

Chapter 5.—COLLECTORS

§ 20-502. Oath and bond of collector; form

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-504.

§ 20-504. Duties of collector; liability; commission; additional bond requirements if real estate to be possessed

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-506.

Chapter 7.—INVENTORY OF ASSETS

§ 20-706. Exceptions to inventory

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-901.

Chapter 9.—ASSETS OF ESTATE

§ 20-903. Claims of testator against executor not discharged; disposition; liability of surety

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-904, 20-905.

§ 20-904. Failure of executor to include claims of testator against executor in inventory; remedy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-905.

Chapter 11.—SALE OF ASSETS

§ 20-1103. Sale of real estate directed in will; procedure; failure to act

NOTES TO DECISIONS

Specific performance

Where probate judge had rejected executor's sale of realty to plaintiffs and had accepted a higher offer, plaintiffs were not entitled to specific performance of contract or to recover damages from executor for breach of contract in absence of showing that procedures followed by probate judge were contrary to law. *E. H. Savage, etc. v. C. L. Pinderhughes, Executor etc.* (1967, 382 F. 2d 171, 127 U.S. App. D.C. 222).

§ 20-1106. Authority of court regarding sales of realty; responsibility for proceeds; restrictions on sales; auditor's report

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1111.

Chapter 13.—CLAIMS OF CREDITORS

§ 20-1302. Judgment or decree; voucher or proof

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1303.

§ 20-1303. Bond, note, check, protested bill of exchange; original or copy of instrument to constitute voucher

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1304.

§ 20-1313. Payment of claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1315.

§ 20-1318. Period during which creditors may file suit after claim is contested

NOTES TO DECISIONS

Computation of time

If legally authenticated claim is exhibited to executor or administrator and he rejects it, his rejection sets in motion running of three-month statute of limitations and any claim sued on more than three months after rejection is barred. *F. M. Graham, formerly F. M. Frel, Administratrix etc. v. S. Gordon etc.* (D.C. App. 1968, 242 A. 2d 838).

Where endorser of installment note had brought action against estate for face amount of note but was awarded judgment only for installments which he had paid, subsequent action which sought to recover additional installments paid and which was commenced more than three months after administratrix had rejected his prior claim was not barred by three-month statute of limitations. *Id.*

Construction

Statute creating three-month limitation period for asserting claim which had been rejected by executor or administrator must be strictly construed. *F. M. Graham, formerly F. M. Frel, Administratrix etc. v. S. Gordon etc.* (D.C. App. 1968, 242 A. 2d 838).

Administrator may not start running of short statute of limitations by rejecting claim which has not been authenticated. *Id.*

Where claim originally rejected is different in form from claim sued upon, short statute of limitations does not bar suit. *Id.*

Effect of other decision on issue of jurisdiction

In an action to enforce default judgment rendered by New York court, federal court's dismissal of defendants' counterclaim was not res judicata on issue of validity of the New York judgment, where issue of jurisdiction of New York Court to render that judgment, although mentioned in defendants' points and authorities in opposition to motion to dismiss, was apparently not the determinative factor in that decision, and order of dismissal did not indicate that it was based on finding that New York court had jurisdiction, and there was no reference in the order to question of jurisdiction. *Franklin National Bank v. B. Krakow, as Co-executor et al., etc.* (1969, 295 F. Supp. 910).

Plaintiff who sued to enforce default judgment rendered by New York court was not entitled to judgment on pleadings because the federal court for District of Columbia previously had granted plaintiff's motion to dismiss defendants' counterclaim which had alleged invalidity of the New York judgment, where the reason for dismissing counterclaim was not enunciated. *Id.*

Enforcement of foreign judgment

Plaintiff's motion for judgment on the pleadings treated as a motion for summary judgment, in an action to en-

force a default judgment rendered by a New York court on a note executed by defendants' decedent would be denied, where defendants' allegations in opposition to the motion including showing that only connection with New York state was that note provided that the note should be governed by New York laws raised genuine issues of material fact which, if proved, would establish that New York court lacked jurisdiction. *Franklin National Bank v. B. Krakow, as Co-executor, et al., etc.* (1969, 295 F. Supp. 910).

Full faith and credit

Full faith and credit clause of the Constitution did not preclude an inquiry by the federal court in District of Columbia in an action brought to enforce a default judgment entered by New York Supreme Court into jurisdiction of the New York court to render the judgment sought to be enforced. *Franklin National Bank v. B. Krakow, as Co-executor, et al., etc.* (1969, 295 F. Supp. 910).

Inquiry into jurisdiction of foreign court

In an action to enforce default judgment rendered by a New York court, in making inquiry into jurisdiction of the New York court to render the judgment federal court was bound to apply the law of New York applicable to question of jurisdiction rather than the District of Columbia law notwithstanding the jurisdictional standards of the District of Columbia might not support a judgment such as the one rendered by the New York court. *Franklin National Bank v. B. Krakow, as Co-executor, et al., etc.* (1969, 295 F. Supp. 910).

In an action to enforce a default judgment rendered by a New York court against defendants who were not served in New York, federal court was not precluded from inquiring into jurisdiction of the New York court to render the judgment on grounds that defendants were required to go into New York state to contest jurisdiction since defendants were free to ignore the proceedings and ultimately resist any enforcement of default judgment since if judgment-rendering court lacked jurisdiction, the judgment was a nullity. *Id.*

§ 20-1320. Notice to creditors to file claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1321.

§ 20-1321. Report and proof of notice

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1322.

§ 20-1323. Docket of claims

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1324.

§ 20-1329. Creditor's¹ rights against property of non-resident decedent; limitation

NOTES TO DECISIONS

Effect of appointment of guardian of nonresident minor's estate

Appointment by a local court of a guardian of a non-resident minor's estate on basis that situs of property in which minor had alleged interest was in District of Columbia did not change domicile of minor and the appointment did not, in and of itself, make the nonresident a local creditor or give local-creditor-basis for denying transfer of funds of deceased from local ancillary proceedings to domiciliary proceedings in Florida. *M. N. Suydam, etc., et al. v. J. E. Suydam* (1968, 404 F. 2d 1332, 131 U.S. App. D.C. 355).

Transfer of funds to domiciliary administration

Granting of motion to transfer funds from ancillary to domiciliary proceedings in Florida after full evidentiary hearing was an exercise of discretion. *M. N. Suydam, etc., et al. v. J. E. Suydam* (1968, 404 F. 2d 1332, 131 U.S. App. D.C. 355).

¹ So in original. Does not agree with section catch-line appearing in chapter analysis preceding § 20-1301.

Court on motion of ancillary administratrix properly transferred funds of deceased to Florida where domiciliary administration took place where there were no locally domiciled creditors but rather only a nonresident's claim presented locally. *Id.*

Chapter 19.—DISTRIBUTION OF SURPLUS

§ 20-1901. Distribution; when to be made

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 19-114.

NOTES TO DECISIONS

Equitable apportionment of estate taxes

Purpose of the marital deduction provision does not modify meaning of District of Columbia statute whereby dissenting widow can take one-third of surplus after debts, and hence the amount of property received by widow's election, and thus the amount eligible for marital deduction, was a portion of the surplus remaining after deducting entire amount of estate taxes, in view of District of Columbia rule rejecting doctrine of general equitable apportionment of estate taxes. *R. H. DelMar et al. v. United States* (1968, 390 F. 2d 466, 129 U.S. App. D.C. 51).

Congress adopted the marital deduction to provide opportunity for equalization of the tax treatment of estates in common law and community property states. *Id.*

§ 20-1904. Partial distribution

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-1905.

Chapter 21.—ADMINISTRATION OF SMALL ESTATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 20-1325.

§§ 20-2101, 20-2102

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 20-2103, 20-2105.

Chapter 23.—ESTATES AND ABSENTEES AND ABSCONDERS

§ 20-2301. Petition for appointment of receiver, where absentees interested in property; United States attorney as party

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-2302, 20-2305, 20-2308.

§ 20-2302. Warrant to United States marshal; fees of marshal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-2303, 20-2306.

§ 20-2303. Notice of hearing to absentee and interested parties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-2304, 20-2308.

§ 20-2305. Appointment of receiver; bond; finding of date of disappearance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-2306 to 20-2308, 20-2314.

§ 20-2307. Possession, by receiver, of additional property; collection of debts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-2308.

§ 20-2312. Compensation of receiver; interest of absentee in property to cease after fourteen years

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-2313, 20-2314.

§ 20-2313. Distribution after fourteen years as if absentee had died intestate

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 20-2314.

TITLE 21.—FIDUCIARY RELATIONS AND THE MENTALLY ILL

Chapter 1.—GUARDIANSHIP OF INFANTS

SUBCHAPTER I.—APPOINTMENT OF GUARDIAN; BOND

§§ 21-101 to 21-104

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 21-106.

§ 21-108. Selection of guardian by infant

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-107.

SUBCHAPTER II.—PROPERTY OF INFANTS

§ 21-141. Possession of property

NOTES TO DECISIONS

Will as being a part of a ward's estate

Requiring adult children of ward to transfer to conservators alleged testamentary document entrusted to children by ward was not improper on ground that will was not part of ward's estate in his lifetime. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

§ 21-143. Duties; accounts; maintenance and education; sales; compensation

NOTES TO DECISIONS

Reasonable compensation

A figure of 5% as a flexible rule of thumb for fixing reasonable compensation, in ordinary case, to guardians ad litem and conservators appointed pursuant to statute governing guardians of property of mentally incompetent persons, is permissible. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

§ 21-146. Contract for sale by adult in behalf of himself and infant

SECTION REFERRED TO IN OTHER SECTIONS

This section (formerly 21-213) is referred to in section 16-2901.

§ 21-148. Sale or exchange of real estate; proceedings

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-149 to 21-151, 21-155.

§§ 21-149, 21-150

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 21-155.

§ 21-151. Decree of sale; costs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-152, 21-153, 21-155.

§§ 21-152, 21-153

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 21-155.

Chapter 3.—GIFTS TO MINORS—UNIFORM LAW

§ 21-301. Definitions

As used in this chapter:

(1) "adult" means a person who has attained the age of twenty-one years;

(2) "bank" means a person or association of persons carrying on the business of banking, whether incorporated or not, in the District of Columbia;

(3) "broker" means a person who is lawfully engaged in the business of effecting transactions in securities for the account of others; a financial institution which effects such transactions; and one who is lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business;

(4) "court" means the United States District Court for the District of Columbia;

(5) "custodial property" means:

(A) securities, money, life insurance and annuity contracts under the supervision of the same custodian for the same minor as a consequence of gifts made to the minor in the manner prescribed by this chapter;

(B) the income from the custodial property; and

(C) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, or other disposition of securities, money, life insurance and annuity contracts, and income;

(6) "custodian" means a person so designated in the manner prescribed by this chapter;

(7) "Financial institution" means—

(A) any bank,

(B) any homestead or building association, building and loan association, savings and loan association, or Federal savings and loan association, or

(C) any Federal credit union, having an office in the District of Columbia.

(8) "guardian of a minor" means the general guardian, guardian, tutor, or curator of the minor's property, estate, or person;

(9) "issuer" means a person who places or authorizes the placing of his name, other than as a transfer agent, on a security to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of such a person;

(10) "legal representative" means the executor, administrator, general guardian, committee, conservator, tutor, or curator of a person's property or estate;

(11) "life insurance and annuity contracts" include only insurance and annuity contracts on the life of a minor or a member of the minor's family as defined by clauses (11) and (12);

(12) "member of a minor's family" includes a minor's parent, grandparent, brother, sister, uncle, and aunt, whether of the whole blood or the half blood, or by or through legal adoption;

(13) “minor” means a person who has not attained the age of 21 years;

(14) “security” means a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate transferable, share, voting trust certificate, or, in general, an interest or instrument commonly known as a security, or a certificate of interest of participation in, a temporary or interim certificate, receipt, or certificate of deposit for, or a warrant or right to subscribe to or purchase, any of the foregoing; “security” does not include a security of which the donor is the issuer; a “security” is in “registered form” when it specifies a person entitled to it or to the right it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer;

(15) “transfer agent” means one who acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrender securities;

(16) “trust company” means a bank authorized to exercise trust powers. (Sept. 14, 1965, 79 Stat. 744, Pub. L. 89-183, § 1, eff. Jan. 1, 1966; Apr. 19, 1968, Pub. L. 90-290, § 1(1), 82 Stat. 98.)

AMENDMENT

1968—Section 1(1), act Apr. 19, 1968, Pub. L. 90-290 amended section by striking “bank” in par. (3) and inserting “financial institution”; by renumbering former pars. (7) to (15) as (8) to (16); and by inserting a new par. (7) as above set out.

§ 21-302. Gifts of securities, money, life insurance, or annuity contracts to minors; manner of making

(a) * * *

* * * *

(4) Where the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, another adult, or a trust company, followed, in substance, by the words: “as custodian for [name of minor] under the District of Columbia Uniform Gifts to Minors Act.”

* * * *

(As amended Apr. 19, 1968, Pub. L. 90-290, § 1(2), 82 Stat. 98.)

AMENDMENTS

1968—Section 1(2), act Apr. 19, 1968, Pub. L. 90-290, amend subsec. (a) (4) by striking out “bank” and inserting “financial institution”; and by striking out “bank with trust powers” and inserting “trust company”.

§ 21-303. Gift irrevocable; rights and duties of guardian or custodian

(a) A gift made as prescribed by this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, money, life insurance or annuity contract given, but a guardian of the minor does not have a right, power, duty, or authority with respect to the custodial property, except as provided by this chapter.

(b) By making a gift in the manner prescribed by this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the

custodian, and to any issuer, transfer agent, financial institution, broker, insurance company, or third person dealing with a custodian, the respective powers, rights, and immunities provided by this chapter. (Sept. 14, 1965, 79 Stat. 746, Pub. L. 89-183, § 1, eff. Jan. 1, 1966; Apr. 19, 1968, Pub. L. 90-290, § 1(3), 82 Stat. 98.)

AMENDMENT

1968—Section 1(3), act Apr. 19, 1968, Pub. L. 90-290, amended subsection (b) by striking “bank” and inserting “financial institution”.

§ 21-304. Custodian to be one person; rights, powers, and duties of custodian

* * * *

(g) A custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed in substance, by the words: “as custodian for [name of minor] under the District of Columbia Uniform Gifts to Minors Act”. He shall hold all money which is custodial property in an account with a broker or in a financial institution in the name of the custodian, followed, in substance, by the same words. He shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

* * * *

(As amended Apr. 19, 1968, Pub. L. 90-290 § 1(3), 82 Stat. 98.)

AMENDMENT

1968—Section 1(3), act Apr. 19, 1968, Pub. L. 90-290, amended subsection (g) by striking “bank” and inserting “financial institution”.

§ 21-306. Exemption of third persons from liability

An issuer, transfer agent, financial institution, broker, insurance company, or other person acting on the instructions of or otherwise dealing with a person purporting to act as a donor or in the capacity of a custodian is not responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether a purchase, sale, or transfer to or by or other act of a person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter, and is not obliged to inquire into the validity of propriety under this chapter of an instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, and is not bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. (Sept. 14, 1965, 79 Stat. 748, Pub. L. 89-183, § 1, eff. Jan. 1, 1966; Apr. 19, 1968, Pub. L. 90-290, § 1(3), 82 Stat. 98.)

AMENDMENT

1968—Section 1(3), act Apr. 19, 1968, Pub. L. 90-290, amended section by striking “bank” and inserting “financial institution”.

Chapter 5.—HOSPITALIZATION OF THE MENTALLY ILL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 21-1101, 24-528.

SUBCHAPTER I.—DEFINITIONS; COMMISSION ON MENTAL HEALTH

§ 21-501. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-351, 21-701, 21-1501.

NOTES TO DECISIONS

Construction with other laws

The District of Columbia Sexual Psychopath Act was not repealed by the 1964 Hospitalization of Mentally Ill Act. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Court of Appeals would not read into the District of Columbia Sexual Psychopath Act the procedural protections of the Hospitalization of the Mentally Ill Act. *Id.*

Limitation of applicability of chapter

The protection of the District of Columbia Hospitalization of the Mentally Ill Act is limited to those who are declared insane or of unsound mind pursuant to a court order and does not include any person previously committed under the Sexual Psychopath Act. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

SUBCHAPTER II.—VOLUNTARY AND NONPROTESTING HOSPITALIZATION

§ 21-511. Voluntary hospitalization

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-512.

§ 21-512. Release of voluntary patient

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-526.

§ 21-513. Hospitalization of nonprotesting person

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-514.

§ 21-514. Release of patients hospitalized under section 21-513

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-513.

SUBCHAPTER III.—EMERGENCY HOSPITALIZATION

§ 21-521. Detention of persons believed to be mentally ill; transportation and application to hospital

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-522.

NOTES TO DECISIONS

Commencement of judicial proceedings

Physician's petition for judicial hospitalization of patient commenced the judicial proceedings so that detention of patient during course of proceedings was authorized even though petition was not filed until almost four weeks after patient had been admitted to hospital. *In the Matter of H. Perry* (1967, 269 F. Supp. 729).

§ 21-522. Examination and admission to hospital; notice

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-523, 21-524.

§ 21-523. Court order requirement for hospital detention beyond 48 hours; maximum period for observation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-522, 21-524, 21-526.

NOTES TO DECISIONS

Construction

Statute providing that a person admitted to hospital for emergency observation and diagnosis may not be detained for period over 48 hours unless hospital administrator has filed petition for order authorizing continued hospitalization must be read in connection with another provision providing that hospital administrator may, if judicial proceedings for hospitalization have been commenced, detain person in hospital during course of the judicial proceedings. *In the Matter of H. Perry* (1967, 269 F. Supp. 729).

§ 21-524. Determination and order of court

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-525 to 21-527.

§ 21-525. Hearing by court

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-526.

§ 21-528. Detention of person pending judicial proceedings

NOTES TO DECISIONS

Construction

Statute providing that a person admitted to hospital for emergency observation and diagnosis may not be detained for period over 48 hours unless hospital administrator has filed petition for order authorizing continued hospitalization must be read in connection with another provision providing that hospital administrator may, if judicial proceedings for hospitalization have been commenced, detain person in hospital during course of the judicial proceedings. *In the Matter of H. Perry* (1967, 269 F. Supp. 729).

SUBCHAPTER IV.—HOSPITALIZATION UNDER COURT ORDER

§ 21-541. Petition to Commission; copy to person affected

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-542, 21-551, 21-582.

NOTES TO DECISIONS

Commencement of judicial proceedings

Physician's petition for judicial hospitalization of patient commenced the judicial proceedings so that detention of patient during course of proceedings was authorized even though petition was not filed until almost four weeks after patient had been admitted to hospital. *In the Matter of H. Perry* (1967, 269 F. Supp. 729).

Scope of mandatory commitment

Notwithstanding fact that appeal of denial of petition for writ of habeas corpus by person who was acquitted by reason of insanity and summarily committed to mental hospital pursuant to mandatory provisions of District of Columbia statute raised substantial questions concerning scope of mandatory commitment and its relationship to the Hospitalization of the Mentally Ill Act, in view of petitioner's unconditional release from hospital while appeal was pending, appeal was dismissed as moot. *S. I. Solomon v. D. C. Cameron, Sup't etc.* (1967, 377 F. 2d 170, 126 U.S. App. D.C. 285).

§ 21-542. Hearing by Commission; presence and rights of person affected; hearing regarding liability

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-544.

§ 21-544. Determinations of Commission; report to court; copy to person affected; right to jury trial

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-545.

NOTES TO DECISIONS

Acquiescence in plea of insanity

Where petitioner had not himself sought introduction of insanity defense at his trial and had not acquiesced in assertion of that defense, his commitment to hospital

for the mentally ill following his acquittal by reason of insanity was not authorized and he was entitled to habeas corpus. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Construction

Statute to effect that when it appears to court that accused is of unsound mind or is mentally incompetent so as to be unable to understand proceedings against him court may order accused committed for observation and treatment if necessary did not authorize trial judge's affording hearing to determine for commitment purposes mental condition of accused found not guilty by reason of insanity, applying release standards of 1964 Hospitalization of the Mentally Ill Act or extending to accused rights which the 1964 Act guaranteed only to those civilly committed. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Danger to community

Consideration of a person's likely danger to community is appropriate in civil commitment proceedings but is irrelevant in a criminal trial. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Treatability

Treatability of one having a mental disease or defect is not an appropriate consideration at a criminal trial, and its relevance may even be doubtful in a civil commitment determination. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

§ 21-545. Hearing and determination by court or jury; order; witnesses; jurors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-546, 21-551.

NOTES TO DECISIONS

Acquiescence in plea of insanity

Where petitioner had not himself sought introduction of insanity defense at his trial and had not acquiesced in assertion of that defense, his commitment to hospital for the mentally ill following his acquittal by reason of insanity was not authorized and he was entitled to habeas corpus. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Burden of proof

Burden of proof, in habeas corpus proceeding by one committed to mental hospital after being found not guilty by reason of insanity, is the same as that for civilly committed patients. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that habeas corpus petitioner must prove that his detention is illegal by preponderance of evidence applies in habeas corpus proceeding by one committed to mental hospital after being found not guilty of offense by reason of insanity, and thus court must find, by preponderance of evidence, that patient's commitment is no longer valid, that is, that he is no longer likely to injure himself or other persons due to illness. *Id.*

Civil commitment of alleged criminal

Defendant who was insane for purpose of responsibility at time of offense may not be insane for purpose of civil commitment at time of verdict, or although competent to stand trial, he may be insane, dangerous and in need of treatment for purpose of civil commitment. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Civil commitment, when warranted

In order to warrant civil commitment, it is not essential that illness fit specifically into any of various classes of mental illnesses recognized by American Psychiatric Association. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Commitment procedure

Commission of criminal acts does not give rise to a presumption of dangerousness which, standing alone, justifies substantial difference in commitment procedures and confinement conditions for mentally ill, and that, while

prior criminal conduct is relevant to the determination whether person is mentally ill or dangerous, it cannot justify denial of procedural safeguards for such determination, and that while prior criminal conduct is a relevant consideration it does not provide automatic basis for allowing significant and arbitrary differences in such conditions where defendant is acquitted on his own plea of insanity. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Prior criminal conduct cannot be deemed sufficient justification for substantial differences in procedures and requirements for commitment of those found not guilty by reason of insanity and other mentally ill persons. *Id.*

Rule that prior criminal conduct cannot be deemed sufficient justification for substantial differences in procedures and requirements for commitment of those found not guilty by reason of insanity and other mentally ill persons applies whether plea of insanity is raised by defendant, prosecutor or court. *Id.*

There is no reasonable basis for distinction for commitment purposes between those who plead insanity and those who have defense thrust upon them, and neither may be automatically deprived of type of protection afforded by 1964 Hospitalization of Mentally Ill Act. *Id.*

Fact that persons acquitted by reason of insanity have committed criminal acts and that such fact may tend to show they meet requirements for commitment does not remove such requirements nor justify total abandonment of procedures used in civil commitment proceedings to determine whether such requirements have been satisfied. *Id.*

Persons found not guilty by reason of insanity must be given judicial hearing with procedures substantially similar to those in civil commitment proceedings. *Id.*

Where feasible, requirements of Hospitalization of Mentally Ill Act as to notice, counsel, and jury trial should be followed in connection with judicial hearing afforded persons found not guilty by reason of insanity. *Id.*

Rule that persons found not guilty by reason of insanity must be given judicial hearing with procedures substantially similar to those in civil commitment proceedings is applicable prospectively only. *Id.*

Danger to community

Consideration of a person's likely danger to community is appropriate in civil commitment proceedings but is irrelevant in a criminal trial. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Evidence

In view of psychiatrists' testimony that person was suffering from condition which substantially impaired his health, that the condition was interrelated with his mental deficiency, and that his antisocial behavior occurred as result and manifestation of underlying mental illness, there was sufficient evidence for jury to find that person in addition to being mentally deficient was suffering from a mental illness. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Grounds for commitment

To sustain a civil commitment under District of Columbia Code it is insufficient to find that a person is mentally deficient even when such condition is accompanied by some antisocial behavior, and government must prove by preponderance of evidence that individual suffers from mental illness, whether related or unrelated to mental deficiency, and that danger-productive behavior of individual results from mental illness. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Instructions

To extent that district court's instruction reflected government trial counsel's view that mental deficiency in and of itself constituted a mental illness within District of Columbia statute relating to civil commitment instruction was improper, but when court's charge was taken in its entirety the jury had been clearly and properly informed they could not commit person simply because of his mental deficiency. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Investigation discretionary

Provision of the District of Columbia Hospitalization of the Mentally Ill Act providing that court may order hos-

pitalization or any other alternative course of treatment makes court's duty to investigate discretionary and not mandatory. *C. Lake v. Dr. D. C. Cameron* (1967, 267 F. Supp. 155).

Justification for treatment

Evidence in committed petitioner's habeas corpus proceeding established that actual medical and psychiatric treatment extended to petitioner was fully warranted and that, in view of petitioner's tendency to wander, there was no facility within district, other than mental hospital with closed wards, presently capable of treating her. *C. Lake v. Dr. D. C. Cameron* (1967, 267 F. Supp. 155).

Treatability

Treatability of one having a mental disease or defect is not an appropriate consideration at a criminal trial, and its relevance may even be doubtful in a civil commitment determination. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

§ 21-546. Periodic requests for examination of hospitalized patient; procedure for examination and detention or release; petition to court

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 21-547, 21-549, 21-589.

NOTES TO DECISIONS

Periodic examinations

Statute governing release of persons acquitted by reason of insanity entitles patient to periodic examinations by hospital staff and right to be examined by outside psychiatrist and, if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing. *G. C. Bolton v. D. W. Harris, Acting Superintendent, etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that patient committed to mental hospital after being found not guilty of offense by reason of insanity is entitled to periodic examinations by hospital staff and right to be examined by outside psychiatrist, and that if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing applies to all cases including those previously committed under statute providing for mandatory commitment of persons acquitted by reason of insanity. *Id.*

Release provisions

Release provisions of statute governing commitment to mental hospital of one found not guilty by reason of insanity are valid even though they differ from civil commitment procedures by authorizing court review of hospital's decision to release patient. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Equal protection is not offended by allowing government or court opportunity to insure that standards for release of civilly committed patients are faithfully applied to patients committed after having been found not guilty by reason of insanity. *Id.*

§ 21-547. Judicial determination of petition filed under section 21-546; order; physicians as witnesses

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 21-549, 21-589.

NOTES TO DECISIONS

Release provisions

Release provisions of statute governing commitment to mental hospital of one found not guilty by reason of insanity are valid even though they differ from civil commitment procedures by authorizing court review of hospital's decision to release patient. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Equal protection is not offended by allowing government or court opportunity to insure that standards for release of civilly committed patients are faithfully applied to patients committed after having been found not guilty by reason of insanity. *Id.*

Periodic examinations

Statute governing release of persons acquitted by reason of insanity entitles patient to periodic examinations by

hospital staff and right to be examined by outside psychiatrist and, if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that patient committed to mental hospital after being found not guilty of offense by reason of insanity is entitled to periodic examinations by hospital staff and right to be examined by outside psychiatrist, and that if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing applies to all cases including those previously committed under statute providing for mandatory commitment of persons acquitted by reason of insanity. *Id.*

§ 21-548. Periodic examinations by hospital authorities; release

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 21-549, 21-589.

NOTES TO DECISIONS

Periodic examinations

Statute governing release of persons acquitted by reason of insanity entitles patient to periodic examinations by hospital staff and right to be examined by outside psychiatrist and, if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing. *G. C. Bolton v. D. W. Harris, Acting Superintendent, etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that patient committed to mental hospital after being found not guilty of offense by reason of insanity is entitled to periodic examinations by hospital staff and right to be examined by outside psychiatrist, and that if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing applies to all cases including those previously committed under statute providing for mandatory commitment of persons acquitted by reason of insanity. *Id.*

Release provisions

Release provisions of statute governing commitment to mental hospital of one found not guilty by reason of insanity are valid even though they differ from civil commitment procedures by authorizing court review of hospital's decision to release patient. *G. C. Bolton v. D. W. Harris, Acting Superintendent, etc.* (1969, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Equal protection is not offended by allowing government or court opportunity to insure that standards for release of civilly committed patients are faithfully applied to patients committed after having been found not guilty by reason of insanity. *Id.*

§§ 21-549, 21-550

SECTIONS REFERRED TO IN OTHER SECTIONS
These sections are referred to in section 21-589.

§ 21-551. Nonresidents

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 21-589, 21-906.

SUBCHAPTER V.—RIGHT TO COMMUNICATION; EXERCISE OF OTHER RIGHTS

§ 21-562. Medical and psychiatric care and treatment; records

NOTES TO DECISIONS

Availability of treatment

Availability of treatment for persons civilly committed to hospital as mentally ill had been sufficiently demonstrated in case so that it was not necessary to decide question of whether court erred in ordering hospitalization at particular hospital in absence of showing that he would receive medical and psychiatric treatment there. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Basis for indefinite commitment

Indefinite commitment under sexual psychopath law is justifiable only upon a theory of therapeutic treatment. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383).

Construction with other laws

The District of Columbia Sexual Psychopath Act was not repealed by the 1964 Hospitalization of Mentally Ill Act. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Court of Appeals would not read into the District of Columbia Sexual Psychopath Act the procedural protections of the Hospitalization of the Mentally Ill Act. *Id.*

Evidence

In view of psychiatrists' testimony that person was suffering from condition which substantially impaired his health, that the condition was interrelated with his mental deficiency, and that his antisocial behavior occurred as result and manifestation of underlying mental illness, there was sufficient evidence for jury to find that person in addition to being mentally deficient was suffering from a mental illness. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Habeas corpus

Alleged denial of mental patients' right to treatment would require remand of habeas corpus petition for a new hearing. *S. A. Dobson and R. Stultz v. D. C. Cameron, Sup't etc.* (1967, 383 F. 2d 519, 127 U.S. App. D.C. 324).

Petitioner involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity had right to treatment that was cognizable in habeas corpus, and law and justice required remand for hearing and findings on whether petitioner had received adequate treatment and, if not, the details and circumstances underlying the reason why he had not. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Habeas corpus relief would be available to one involuntarily committed to public hospital as sexual psychopath but who is not receiving reasonably suitable and adequate treatment, and lack of such treatment could not be justified by lack of staff or facilities. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 388; rev'd and remanded 406 F. 2d 964).

Instructions

To extent that district court's instruction reflected government trial counsel's view that mental deficiency in and of itself constituted a mental illness within District of Columbia statute relating to civil commitment instruction was improper, but when court's charge was taken in its entirety the jury had been clearly and properly informed they could not commit person simply because of his mental deficiency. *In re M. W. Alexander, Patient* (1967, 372 F. 2d 925, 125 U.S. App. D.C. 352).

Reasonable opportunity to initiate treatment

If court finds that a mandatorily committed patient is in custody in violation of Constitution and laws, for failure to receive treatment, it may allow hospital a reasonable opportunity to initiate treatment, but if opportunity for treatment has been exhausted or is otherwise inappropriate, conditional or unconditional release may be in order. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Right to treatment

One involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity has a right to treatment. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

On issue of right to treatment of one involuntarily committed on being acquitted of an offense by reason of insanity, hospital need not show that treatment will cure or improve him but only that there is bona fide effort to do so, and this requires hospital to show that initial and periodic inquiries are made into needs and conditions of patient with view to providing suitable treatment for him, and that the program provided is suited to his particular needs. *Id.*

On issue of right to treatment of one involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity, effort should be to provide treatment which is adequate in light of present knowledge. *Id.*

Continuing failure to provide suitable and adequate treatment of one involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity cannot be justified by lack of staff or facilities. *Id.*

§ 21-564. Exercise of property and other rights; notice of inability; persons hospitalized prior to September 15, 1964**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS**Construction**

Only those hospitalized pursuant to Hospitalization of Mentally Ill Act are guaranteed by the civil rights act to dispose of property, execute instruments, make purchases, enter into contractual relationships, vote, or hold driver's license. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Effect of commitment

Commitment to St. Elizabeth's hospital does not automatically render person incompetent for most purposes. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS**§ 21-581. Proceedings instituted by Commissioners of the District of Columbia****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 21-585. Confinement in jail prohibited**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 21-589.

§ 21-586. Financial responsibility for care of hospitalized persons; judicial enforcement**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 21-542, 21-589.

§§ 21-587, 21-588**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 21-589.

Chapter 7.—PROPERTY OF MENTALLY ILL PERSONS**§ 21-704. Contract for sale by adult in behalf of himself and mentally ill person****SECTION REFERRED TO IN OTHER SECTIONS**

This section (formerly 21-213) is referred to in section 16-2901.

Chapter 9.—MENTALLY ILL PERSONS FOUND IN CERTAIN FEDERAL RESERVATIONS**§ 21-902. Commitments by special commissioners of certain district courts****SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 21-903 to 21-906.

§ 21-903. Apprehension by certain officials of persons believed to be mentally ill; proceedings

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-902, 21-905, 21-906.

§ 21-904. Admission upon written application; right of release

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-903, 21-906, 21-909.

§ 21-906. Examinations; adjudications; laws applicable; expense care and treatment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-904.

§ 21-907. Transfer of military personnel

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-902.

Chapter 11.—COMMITMENT AND MAINTENANCE OF FEEBLE-MINDED PERSONS

§ 21-1102. Persons received in District Training School; age limit

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(202) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 21-1103. Petition of District Court as to feeble-mindedness; contents; verification; notice; process

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-1104 to 21-1107, 21-1118.

§ 21-1107. Hearing; continuances; character of proofs; jury trial

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1108.

§ 21-1108. Dismissal and discharge, or placement in District Training School; controlling considerations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1109.

§ 21-1109. Private and public patients; bond for support and maintenance; sufficiency and justification of sureties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1112.

§ 21-1110. Liability of estate of public patient for maintenance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1111.

§ 21-1111. Proceedings to charge relatives legally responsible for maintenance of public patient; collection of maintenance payments; enforcement of order; liability of decedent's estate

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 21-1120. Paroles; conditions; expense; discretion of superintendent; violation; return

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(203) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 15.—CONSERVATORS

§ 21-1501. Appointment of conservators

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20-351, 21-1502.

NOTES TO DECISIONS

Colorable jurisdiction

A determination that conservator was properly appointed was correct where the initial appointments of guardian ad litem, temporary conservator and permanent conservator of person and estate were based on colorable jurisdiction. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Control over property in other jurisdiction

Local statutes cannot by themselves give conservator power to assert control over property in other jurisdictions, and local conservator has authority and power to take control over property located in another state only so far as allowed by comity of that state. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Determination of benefits accruing to estate

Determination as to benefits accruing to estate and size of estate for purposes of compensation of former conservators and guardian ad litem required that record be supplemented to determine extent conservators actually assumed, or had power to assume, control over appellant's stock and specific findings of fact as to whether value of her stock may have increased regardless of efforts of conservators and whether services of guardian and conservators actually inured to her benefit. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Discretion of trial judge

In a case where there is any property within District of Columbia, appointment of conservator is within discretion of trial judge in view of lack of statutory specification of the minimum amount of property necessary for appointment of conservator. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Where the appellant had \$850 worth of property in the District, appointment of a conservator pursuant to statute governing guardians of property of mentally incompetent persons was not an abuse of discretion. *Id.*

§ 21-1502. Filing of petition; requirements; time and place of hearing; appointment of guardian ad litem

NOTES TO DECISIONS

Court's duties in relation to conservator

Court appointing conservators should be willing to receive complaints and reports from any source concerning alleged misconduct or conflict of interest. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

Joint services of guardian and conservator

Permitting services of guardian ad litem to continue after permanent conservators were appointed was not improper. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

Reversal on appeal

The Court of Appeals should not reverse lower court's decision regarding conservatorship matters unless a clear

abuse of discretion is shown. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

§ 21-1503. Bond; powers and duties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1505.

NOTES TO DECISIONS

Control over property in other jurisdiction

Local statutes cannot by themselves give conservator power to assert control over property in other jurisdictions, and local conservator has authority and power to take control over property located in another state only so far as allowed by comity of that state. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Determination of benefits accruing to estate

Determination as to benefits accruing to estate and size of estate for purposes of compensation of former conservators and guardian ad litem required that record be supplemented to determine extent conservators actually assumed, or had power to assume, control over appellant's stock and specific findings of fact as to whether value of her stock may have increased regardless of efforts of conservators and whether services of guardian and conserva-

tors actually inured to her benefit. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

Reasonable compensation

A figure of 5% as a flexible rule of thumb for fixing reasonable compensation, in ordinary case, to guardians ad litem and conservators appointed pursuant to statute governing guardians of property of mentally incompetent persons, is permissible. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412 F. 2d 155, — U.S. App. D.C. —).

§ 21-1504. Discharge

NOTES TO DECISIONS

Reasonable compensation

A figure of 5% as a flexible rule of thumb for fixing reasonable compensation, in ordinary case, to guardians ad litem and conservators appointed pursuant to statute governing guardians of property of mentally incompetent persons, is permissible. *E. D. Mitchell v. C. D. Ensor, et al.* (1969, 412, F. 2d 155, — U.S. App. D.C. —).

Title to property

There is no restriction upon district court, sitting in probate, which limits its power to adjudicate right to possession of personalty. *C. M. Price and G. P. Marshall, Jr., etc. v. E. B. Williams et al.* (1968, 393 F. 2d 348, 129 U.S. App. D.C. 239).

PART IV

CRIMINAL LAW AND PROCEDURE

TITLE 22. CRIMINAL OFFENSES.
TITLE 23. CRIMINAL PROCEDURE.

TITLE 24. PRISONERS AND THEIR TREATMENT.

TITLE 22.—CRIMINAL OFFENSES

Chap.	Sec.
18. Burglary -----	22-1801
20. Obscenity -----	22-2001

Chapter 1.—GENERAL PROVISIONS

§ 22-103. Attempts to commit crime.

NOTES TO DECISIONS

Attempted unauthorized use of motor vehicle

Attempted unauthorized use of a motor vehicle is a crime under statutes prohibiting the taking, use, operation, or removal of a vehicle without owner's consent and calling for punishment of whoever shall attempt to commit any crime, which attempt is not otherwise punishable. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Continuance

The granting or refusal of a continuance is largely left to discretion of the trial judge, and his decision will not be disturbed without a clear showing of abuse in the exercise of that discretion. *W. E. Smith v. United States* (D.C. App. 1967, 235 A. 2d 574).

Corroborating witness

Failure of prosecution to produce second officer who as a corroborating witness could only have testified to time and place of defendant's arrest for attempted procuring because he did not hear conversation between arresting officer and defendant was not error in view of prosecution's effort to secure a continuance because second officer was in another court and defendant's then counsel's willingness to proceed to trial in second officer's absence. *R. Blakney v. United States* (D.C. App. 1967, 225 A. 2d 654).

Evidence

Evidence supported conviction for attempted unauthorized use of automobile. *N. Dickson v. United States* (D.C. App. 1967, 226 A. 2d 364).

Evidence supported conviction for attempted unauthorized use of motor vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Evidence—Sufficiency

In this case the evidence in prosecution of defendant for attempted burglarly permitted inference of an intent to commit a crime to be made by the jury who was found in warehouse amongst scattered papers, opened desk drawers and office machinery which had been moved into hall. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 483).

Evidence that tenant of apartment heard what sounded like someone attempting to enter vacant apartment and that defendant and companion were seen leaving building and fled when pursued by officer was sufficient to sustain conviction of attempted housebreaking. *T. H. Adams v. United States* (D.C. App. 1968, 245 A. 2d 640).

Evidence that fingerprints of defendant appeared on glass surface, which had once been outside surface of drugstore entrance was insufficient to sustain conviction of attempted housebreaking, destroying property, and petit larceny. *A. W. Townsley v. United States* (D.C. App. 1967, 236 F. 2d 63).

The record contains sufficient evidence from which the jury could have found or inferred that the car left by owner in the parking garage and the one driven onto the parking lot by appellant were one and the same. *F. E. Wesley v. United States* (D.C. App. 1967, 233 A. 2d 514).

Cigarettes found in defendants' possession, with same "wholesale numbers" as cigarettes left in store, but not otherwise identified as having come from store, had little, if any, probative value. *S. C. Davis and C. L. Colbert v. United States* (D.C. App. 1967, 230 A. 2d 485).

Evidence of defendants' physical and chronological proximity to scene of housebreaking, and their leaving at a trot, was insufficient to sustain conviction for attempted housebreaking and petit larceny. *Id.*

Inconsistent verdict

The trial court could have found defendant, who was carrying goods stolen from an apartment building, which he later abandoned when he attempted to flee, guilty of both attempted burglarly and petit larceny charges on inference of guilt raised by defendant's unexplained possession of recently stolen property or even on the basis of this inference the trier of the facts could have had a reasonable doubt that defendant had necessary criminal intent upon entering apartment building to be convicted of attempted burglarly, and thus verdicts of acquittal on attempted burglary charge and guilty on petit larceny charge were not necessarily inconsistent or irreconcilable. *H. Barnes v. United States* (D.C. App. 1969, 254 A. 2d 724).

Evidence was sufficient to sustain petit larceny conviction. *Id.*

Instructions

In this case, since the jury had convicted defendant of more serious crime of attempted burglarly, any error in instruction on lesser included offense of unlawful entry was not demonstrated to be prejudicial. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 483).

Lapse of time between theft and arrest

Lapse of five days between theft of automobile and arrest of defendant operating it did not insulate him from criminal liability for attempted unauthorized use of motor vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Lesser included offense

Except for the requirement of intent to commit crime, unlawful entry is substantially identical to and hence lesser included offense of burglarly in second degree. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 483).

Proof of ownership

Any failure of prosecution to show who owned automobile involved in prosecution for attempted unauthorized use of motor vehicle did not preclude conviction where it was established that ownership was in some third party. *D. Dickson v. United States* (D.C. App. 1967, 226 A. 2d 364).

Prostitution

Showing that defendant and complaining witness bargained until they had agreed upon exchange of money, although uncertain in amount, for services of prostitute, and that immediately thereafter defendant led complaining witness a considerable distance to hotel unknown to

witness where prostitute was supposedly waiting was sufficient evidence to sustained conviction for attempted procuring. *W. Walker, Jr. v. United States* (D.C. App. 1968, 248 A. 2d 187).

Review

Defendant could not be heard to complain on appeal of conviction for attempted unauthorized use of motor vehicle in view of proof of completion of offense of unauthorized use of the vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Sentences

Under the facts of this case where defendant's true crime was burglary in the second degree, a felony carrying a mandatory minimum sentence of two years, and prosecution reduced felony to the three separate misdemeanors of attempted burglary in second degree, destroying private property, and petit larceny, trial judge did not abuse discretion in imposing two consecutive one-year sentences and one concurrent one-year sentence following defendant's conviction on all three separate misdemeanors. *R. M. Weeks v. United States* (D.C. App. 1969, 252 A. 2d 907).

Store breaking

Evidence warranted conviction for attempted store breaking, where defendant's fingerprints were on top of paper bag which contained burglary tools and which was found beside broken skylight over store, that area was generally inaccessible to public, and that bag was dry although roof was damp. *E. Patten v. United States* (D.C. App. 1968, 248 A. 2d 182).

§ 22-104. Second conviction.

NOTES TO DECISIONS

Notice

Defendant has right to be given notice of government's intention to prosecute as second offender and ask for heavier penalties under second offender statute; the notice should be formal; and informal notice, originating with court, acquiesced in by prosecution, with burden on defendant's counsel to convey notice to defendant, is insufficient. *S. Brandon, Jr. v. United States* (D.C. App. 1968, 239 A. 2d 159).

Practice with respect to second offender prosecutions

The practice of district attorney's office, when intending to prosecute as second offender, to file written notice to that effect, specifically referring to former conviction, its nature and date, and to deliver copy of such notice to defendant personally is approved. *S. Brandon, Jr. v. United States* (D.C. App. 1968, 239 A. 2d 159).

The practice of prosecuting defendant as second offender only on suggestion of trial court and not at suggestion of district attorney's office is disapproved. *Id.*

Proof of prior conviction

The admission of defendant's counsel, in answer to court's question, that defendant had prior conviction of either petit larceny or attempted petit larceny was not waiver of proof of prior conviction. *S. Brandon, Jr. v. United States* (D.C. App. 1968, 239 A. 2d 159).

Trial court's reference at bench conference to grand larceny in 1964, apparently based on information obtained from paper produced by prosecuting attorney, did not constitute proof of former conviction. *Id.*

Sentence

Sentence of defendant as second offender was invalid where defendant had no proper notice that he would be prosecuted as second offender, prosecutor did not intend to prosecute defendant as second offender and did so only at suggestion of trial court, and there was no proof of former conviction. *S. Brandon, Jr. v. United States* (D.C. App. 1968, 239 A. 2d 159).

§ 22-105. Persons advising, inciting, or conniving at criminal offense to be charged as principals.

NOTES TO DECISIONS

Evidence—Sufficiency

Evidence was not sufficient to sustain a conviction for aiding and abetting petit larceny on a showing that at time officer observed suspected criminal activity defend-

ant was standing near the right side of automobile at a point somewhere between automobile, which contained wine and beer allegedly stolen from store, and the store. *T. Williams and B. L. Short v. United States* (D.C. App. 1969, 254 A. 2d 722).

Evidence did not sustain conviction of petit larceny of wine and beer in violation of District Code. *Id.*

The evidence portrayed in a view most favorable to the Government, of defendant's presence at scene of crime, his slight association with actual perpetrator, and subsequent flight, did not sustain conviction for robbery. *J. L. Bailey v. United States* (1969, 416 F. 2d 1110, — U.S. App. D.C. —).

Information—Validity of

Evidence was sufficient to prove that defendant aided and abetted the principal offender in sales and deliveries of drugs, in violation of law, and was not prejudiced by informations charging him alone as principal where there was adequate evidence to establish that principal offender committed violations charged, since statute provided that all persons aiding or abetting principal were to be charged as principals and not as accessories. *R. W. Mason v. United States* (D.C. App. 1969, 256 A. 2d 565).

Prosecution of aider and abettor

In this jurisdiction, an aider and abettor is prosecuted as a principal, and conviction of principal offender is not prerequisite to conviction of the aider and abettor. *J. L. Bailey v. United States* (1969, 416 F. 2d 1110, — U.S. App. D.C. —).

§ 22-109. Prosecutions.

NOTES TO DECISIONS

Information—Sufficiency of

Defendants, who were arrested after refusing to move out of corridor in House wing of Capitol building when ordered to do so by Capitol police, were entitled to know with certainty offense with which they were charged and possible penalty threatened and were entitled to definite reference to the law which they had allegedly violated, and thus where, notwithstanding request of defense, no one had given citation of statute under which prosecution was being had, other than statement of prosecutor that two sections were involved, convictions under section carrying lighter sentence, as requested by prosecutor, were required to be set aside. *D. Smith et al. v. District of Columbia* (1967, 387 F. 2d 233, 128 U.S. App. D.C. 275).

Chapter 4.—ARSON

§ 22-401. Definition and penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2401.

NOTES TO DECISIONS

Defendant's absence during trial

Where record on appeal from convictions for house-breaking, arson, and malicious destruction of personal property failed to show that defendant's absence during trial, after trial had commenced in his presence, constituted deliberate failure to appear without reason that might bear on court's latitude to have continued trial, case would be remanded for development of such issue including circumstances in which defendant was taken into custody after trial. *M. Cureton v. United States* (1968, 396 F. 2d 671, 130 U.S. App. D.C. 22).

§ 22-402. Burning one's own property with intent to defraud or injure another.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2401.

§ 22-403. Malicious burning, destruction, or injury of another's movable property.

NOTES TO DECISIONS

Arrest without warrant

Police officer may arrest without a warrant for misdemeanor of destroying private property only when that crime is committed, or attempt is made to commit it, in

his presence or view. *S. Smith and W. Jeffries v. United States* (D.C. App. 1968, 247 A. 2d 293).

Officer had probable cause to arrest defendant who had been observed tearing up back seat of automobile which he admitted was not his on charge of destroying private property. *Id.*

Defendant's absence during trial

Where record on appeal from convictions for house-breaking, arson, and malicious destruction of personal property failed to show that defendant's absence during trial, after trial had commenced in his presence, constituted deliberate failure to appear without reason that might bear on court's latitude to have continued trial, case would be remanded for development of such issue including circumstances in which defendant was taken into custody after trial. *M. Cureton v. United States* (1968, 396 F. 2d 671, 130 U.S. App. D.C. 22).

Evidence—Sufficiency of

Possession by defendant of stolen television set, in alley at rear of store which was broken into and from which television set was taken, within a few minutes after the breaking of window and theft was sufficient evidence from which the trial court could infer breaking of the window, as predicate for conviction for destroying property. *F. Green v. United States* (D.C. App. 1969, 251 A. 2d 652).

Evidence that fingerprints of defendant appeared on glass surface, which had once been outside surface of drugstore entrance was insufficient to sustain conviction of attempted housebreaking, destroying property, and petit larceny. *A. W. Townsley v. United States* (D.C. App. 1967, 236 A. 2d 63).

Sentences

Under the facts of this case where defendant's true crime was burglary in the second degree, a felony carrying a mandatory minimum sentence of two years, and prosecution reduced felony to the three separate misdemeanors of attempted burglary in second degree, destroying private property, and petit larceny, trial judge did not abuse discretion in imposing two consecutive one-year sentences and one concurrent one-year sentence following defendant's conviction on all three separate misdemeanors. *R. M. Weeks v. United States* (D.C. App. 1969, 252 A. 2d 907).

Chapter 5.—ASSAULT—MAYHEM—THREAT OF BODILY HARM

§ 22-501. Assault with intent to kill, rob, rape, or poison.

Every person convicted of any assault with intent to kill or to commit rape, or to commit robbery, or mingling poison with food, drink, or medicine with intent to kill, or wilfully poisoning any well, spring, or cistern of water, shall be sentenced to imprisonment for not less than two years or more than fifteen years. (Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 803; Dec. 27, 1967, Pub. L. 90-226, § 601, title VI, 81 Stat. 736.)

AMENDMENT

1967—Section 601, Act Dec. 27, 1967, Pub. L. 90-226, amended section by inserting after "for not" the words "less than two years or".

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-203.

NOTES TO DECISIONS

Admissibility of prior convictions

Permitting introduction of theft conviction and attempted larceny by trick conviction as to defendant who had been convicted on some 7 prior occasions and permitting introduction of evidence of narcotics conviction as to defendant who acknowledged some 17 earlier convictions was not error in prosecution in which both defendants elected not to testify. *C. W. Payne and H. Blue v. United States* (1968, 392 F. 2d 820, 129 U.S. App. D.C. 215).

Corroboration

Without corroboration of testimony of eleven-year-old prosecutrix as to defendant's alleged attempts to kiss prosecutrix, his exposure of himself and his attempts to remove her clothing, corpus delicti of assault with intent to commit carnal knowledge was not established. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Elements of assault

The material elements of an assault with intent to commit rape are an assault, an intent to have carnal knowledge of a female, and a purpose to carry into effect this intent with force and against consent of the female unless intended victim is child under age of 16, in which case intent to use force need not be alleged or proved. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Former jeopardy protection

A jury which was specifically prohibited from considering a charge of taking indecent liberties with minor child if defendant were to be found guilty of assault with intent to commit carnal knowledge, and defendant was found guilty of the latter charge, its verdict of not guilty of the former charge was a nullity and did not clothe defendant with former jeopardy protection or preclude reviewing court from directing entry of judgment of guilty on indecent liberties charge upon finding that evidence was insufficient to sustain conviction for assault with intent to commit carnal knowledge. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Instructions

Defendant was convicted of an assault on a female under age of 16 with intent to commit carnal knowledge and with taking immoral, improper and indecent liberties with a female under age of 16, in violation of Miller Act, and the court should have given requested instruction that jury should consider count based on Miller Act only if they acquitted on the other count and, although failure to so instruct did not impair verdict under Miller Act, conviction for other offense must be set aside. *H. C. Dozier v. United States* (1967, 382 F. 2d 482, 127 U.S. App. D.C. 206).

Failure of court to instruct on simple assault as less offense under count charging taking immoral, improper, and indecent liberties with female under age of 16 furnished no basis for reversal, as jury was instructed on simple assault as less offense under count charging assault on female under age of 16 with intent to commit carnal knowledge. *Id.*

Intent

Where a defendant is charged with assault with intent to commit rape, intent may be inferred from his conduct. *H. E. Higgins v. United States* (1968, 401 F. 2d 396, 130 U.S. App. D.C. 331).

Lesser included offense

The crime of taking indecent liberties is a lesser included offense of assault with intent to commit carnal knowledge. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Motion for judgment of acquittal

To withstand a motion for judgment of acquittal of charge of assault with intent to have carnal knowledge, evidence need not exclude every reasonable hypothesis other than intent to have intercourse. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Review

Issues as to whether trial court erred in permitting prosecutor to impeach defendant with cross-examination respecting prior conviction of assault and in permitting prosecutor to impeach defense witness with cross-examination respecting her chastity would not be noticed for the first time on appeal from conviction for assault with intent to commit robbery. *C. E. Green v. United States* (1968, 397 F. 2d 643, 130 U.S. App. D.C. 82).

Reviewing court's authority

Where evidence does not sustain conviction of assault with intent to commit carnal knowledge but was sufficient to establish all elements of taking indecent liberties with minor child, reviewing court in remanding with directions to enter judgment of guilty of taking indecent liberties would accord permission to trial judge to grant new trial if he should deem it to be in the best interest of justice. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

§ 22-502. Assault with intent to commit mayhem or with dangerous weapon.

NOTES TO DECISIONS

Abuse of discretion

In a case where a juvenile had killed his father, and several witnesses had testified to juvenile's fear of his father, exclusion of testimony of juvenile's probation officer, that the juvenile had come to the officer several days before the shooting in order to seek his advice concerning the violent outbreaks of the father and that the officer had told the juvenile to contact police whenever such outbreaks occurred, was not an abuse of discretion and was not prejudicial since proffered evidence was cumulative and more remote than the evidence already admitted which dealt with juvenile's state of mind on the day in question. *In the Matter of M. Bumphus, Jr.* (D.C. App. 1969, 254 A. 2d 400).

Trial court did not abuse its discretion when it concluded that alleged molesting of defendant's son one month prior to charged assault was too attenuated to warrant reception in evidence, in prosecution for assault with a dangerous weapon. *T. M. Harley v. United States* (1967, 377 F. 2d 172, 126 U.S. App. D.C. 287).

Consecutive sentences

It is proper to increase punishment where there have been convictions under the conventional robbery statute and under statute prohibiting assaults with a dangerous weapon by imposing consecutive sentences. *United States v. J. L. Suggs and C. Blair* (1967, 269 F. Supp. 732).

Defendant, who allegedly committed crime of assault with a dangerous weapon in parking lot of store or near door to store, and who allegedly committed a robbery in office of store could be given consecutive sentences upon being convicted for both crimes. *Id.*

Double jeopardy

Defendant who during his trial for robbery threw water pitcher filled with ice at assistant United States attorney and who was sentenced to one year for contempt and who was thereafter convicted and sentenced for assault could not assert double jeopardy on his motion to vacate, set aside or correct assault sentence, where every fact necessary to formulation of double jeopardy claim was known prior to trial for criminal assault. *R. Rollerson v. United States* (1968, 405 F. 2d 1078, 132 U.S. App. D.C. 10).

Evidence—Sufficiency

In this case in light of the evidence on issue of whether offense was product of mental illness, conviction for robbery of property belonging to United States, assault with

a dangerous weapon and carrying dangerous weapon would be affirmed. *T. H. Adams v. United States* (1969, 413 F. 2d 411, — U.S. App. D.C. —).

Intent to commit other crime

There is no statutory requirement for either robbery or assault with a dangerous weapon, that there be a specific intent to commit the other. *United States v. J. L. Suggs and C. Blair* (1967, 269 F. Supp. 732).

One man showup

Where an intruder broke into the apartment of two women, and shortly thereafter was arrested as a suspect, and about 30 minutes after the attack the women were asked to come down to the street in front of their apartment and view defendant who was the sole occupant of patrol wagon, use of "one-man showup" did not deny defendant due process of law. *G. W. Bates v. United States* (1968, 405 F. 2d 1104, 132 U.S. App. D.C. 36).

Release on personal recognizance

Appellant, who was convicted of robbery and assault with a deadly weapon, and whose appeal presented a substantial claim that he was wrongfully identified, was ordered released on personal recognizance on certain enumerated conditions which were so structured as to allow for a maximum amount of supervision over appellant while still allowing for his freedom from incarceration. *W. Banks v. United States* (1969, 414 F. 2d 1150, — U.S. App. D.C. —).

Sufficiency of record on appeal

Record showed a preponderance of competent evidence to sustain conviction of juvenile of manslaughter and assault with a deadly weapon, and decision of juvenile court that juvenile was within its jurisdiction and should be committed to custody of Department of Public Welfare for indeterminate period was proper. *In the Matter of M. Bumphus, Jr.* (D.C. App. 1969, 254 A. 2d 400).

§ 22-504. Assault or threatened assault in a menacing manner.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4-140.

NOTES TO DECISIONS

Appeal and error

Court of Appeals, on appeal from conviction for disorderly conduct and simple assault, was reluctant to determine whether police department form containing information as to time, place and date of offense, name of complainant, names and addresses of witnesses, and description of details of offense was produceable under Jencks Act but would give trial court opportunity in first instance to decide issue of produceability under established guidelines. *C. Duncan, Jr. v. United States and District of Columbia* (1967, 379 F. 2d 148, 126 U.S. App. D.C. 371).

If trial court, in determining issue of produceability of police report form under Jencks Act, found that statement should have been made available, error in failing to require production of statement would not be harmless and would require new trial on charges of disorderly conduct and simple assault. *Id.*

Applicability of Jencks rule

Jencks rule of evidence applies in District of Columbia Court of General Sessions whether case is prosecuted by District of Columbia or by United States. *C. Duncan, Jr. v. United States and District of Columbia* (1967, 379 F. 2d 148, 126 U.S. App. D.C. 371).

Assistance of counsel

The record did not sustain the claim of ineffective assistance of counsel who was a defense attorney with many years of experience and who presented all substantial defenses, made appropriate motions and objections, attempted to suppress the evidence on the charge of unlawful possession of a pistol after conviction of a felony, and was able to obtain acquittal on a charge of threats to do bodily harm and directed verdict in defendant's favor on a charge of assault by threatening in a menacing manner. *I. Gressette v. United States* (D.C. App. 1969, 256 A. 2d 418).

Cause for arrest

Where a police officer had a conversation with the victim of an assault and petit larceny and proceeded in patrol car in search of the assailants, and the stolen articles were in plain view of officer in defendant's hand and at his feet in the gutter, an arrest was authorized when the officer saw the stolen articles. *R. L. Thompkins v. United States* (D.C. App. 1969, 251 A. 2d 636).

Where in making an initial stop of the defendant, the officer was engaged in routine on-the-street investigation in nearby area of a crime minutes after it occurred in an early hour of the morning in his effort to find perpetrator while the trail was still warm, and under these circumstances the initial stop of defendant was neither an arrest nor an arbitrary detention, but arrest occurred after officer saw the articles which fit description of stolen property, which gave sufficient cause to arrest, and seizure was not invalid. *Id.*

Collateral attack on judgment

Bringing of motion for trial court to exercise its inherent power to vacate a sentence and to resentence defendant, thereby restoring him to status of one upon whom sentence has just been passed and who is allowed ten days thereafter in which to note his appeals is the correct procedure for the initiation of a collateral attack upon a judgment or sentence. *G. A. Hines v. United States* (D.C. App. 1968, 237 A. 2d 827).

Consecutive sentences for two separate offenses

The distinctions that assault and petit larceny are separate and distinct offenses requiring different elements of proof, and that one is a crime of general intent against the person, and the other a crime of specific intent against property, are no longer conclusive in determining the legality of consecutive sentences for two crimes committed in a single course of conduct. *G. Mahoney v. United States* (D.C. App. 1968, 243 A. 2d 684).

The compelling reasons which call for the application of the rule of lenity are absent in this case, and there is no substantial doubt Congress would have intended, in the discretion of the court, that consecutive punishment be imposed for historically separate offenses, against different societal interests, for which it has provided separate deterrents. *Id.*

Continuance

The granting or refusal of a continuance is largely left to discretion of the trial judge, and his decision will not be disturbed without a clear showing of abuse in the exercise of that discretion. *W. E. Smith v. United States* (D.C. App. 1967, 235 A. 2d 574).

Defense of property

In a prosecution for assault on neighbor who went upon defendant's parking lot to retrieve a pet cat which had escaped from the neighbor's house and had hidden in an air shaft in defendant's building, a charge that, if defendant acted in honest belief under the circumstances that there would be injury to his property by virtue of what took place and he used no more force than was necessary to prevent injury to his property, then he would have right to do what he did was erroneous but was beneficial to complaining defendant. *R. R. Shehyn v. United States* (D.C. App. 1969, 256 A. 2d 404).

Delay in prosecution

In this case the lapse of time which could be attributed to the government did not justify dismissal of assault informations, though defendant did take the stand to testify that he could not remember the circumstances of his arrest, since his lack of memory was not due to the passage of time but to the fact that he had been drinking prior to the alleged assault, and any delay charged the government could thus have no prejudicial effect on defendant's defense, and there were no other circumstances to support a finding of the trial court of vexatious, oppressive, chicanerous or harassing conduct on the government's part. *United States v. E. L. Jefferson* (D.C. App. 1969, 257 A. 2d 225).

Double jeopardy

Judgments were required to be vacated and nolle prosequis entered in cases which had been pending before Court of General Sessions where government's action in entering the nolle prosequis could not be characterized

as an abuse of its power, and to allow government to file new informations at a subsequent date would not violate double jeopardy clause of Fifth Amendment. *United States v. B. H. Foster* (D.C. App. 1967, 226 A. 2d 164).

Evidence of assault

Evidence that heavy bag of coins was taken from victim's hand supported a finding of an interference with person of another sufficient to constitute an assault. *G. Mahoney v. United States* (D.C. App. 1968, 243 A. 2d 684).

Evidence—Sufficiency

Evidence sustained conviction of assault, public intoxication and disorderly conduct in violation of District of Columbia Code. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Identification

Question of identification was one of fact for jury in prosecution for assault and for carrying a deadly weapon. *J. J. Durham v. United States* (D.C. App. 1968, 237 A. 2d 830).

Ineffective assistance of counsel

Fact that new counsel was appointed not more than 60 minutes before trial did not amount to ineffective assistance of counsel of defendant charged with simple assault, unlawful entry and petit larceny where no continuance was requested and defendant announced he was ready for trial, factual situation was not so complex as to necessitate any extensive investigation and there were no witnesses for the defense who could have been called, new counsel was experienced and diligent and made no claim that he was hampered by appointment shortly before trial. *S. A. Tuttle v. United States* (D.C. App. 1968, 238 A. 2d 590).

Issue of fact

Whether a defendant, who was charged with assault, public intoxication and disorderly conduct in violation of District of Columbia Code, had mental disease which should have excused him from criminal responsibility was issue of ultimate fact for the trier thereof. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Probation report

Where record clearly showed that court had inquired into defendant's record prior to imposing sentence following conviction for assault and learned that defendant had committed offense while on probation from previous conviction, trial court, which felt that it had all information that was needed for sentencing, did not abuse discretion in failing to order either a preliminary screening or probation report prior to imposing sentence. *W. A. Thomas, W. B. Preston and E. C. Singleton v. United States* (D.C. App. 1967, 229 A. 2d 155).

Timely notice of appeal

Failure to file timely notice of appeal deprived the District of Columbia Court of Appeals of jurisdiction over a direct appeal. *G. A. Hines v. United States* (D.C. App. 1968, 237 A. 2d 827).

Weight of evidence

Weight to be given testimony of witnesses who related that the conduct of the defendant at time of alleged assault, public intoxication and disorderly conduct, in violation of District of Columbia Code, and shortly thereafter was bizarre and the weight to be given testimony of government witness who related that the defendant was intoxicated at the time of the alleged offenses and that assault was triggered by refusal to serve him beer was for the trier of fact. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

§ 22-505. Assault on member of police force.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-203.

NOTES TO DECISIONS**Double jeopardy**

There was no double jeopardy when a defendant, after having been convicted of disorderly conduct, was prosecuted for assaulting a police officer, notwithstanding fact

that both incidents occurred in relatively short span of time and at same place. *H. Harris v. United States* (1968, 402 F. 2d 205, 131 U.S. App. D.C. 64).

Evidence—Admissibility of

Refusal to admit into evidence a docket entry indicating that victim of shooting had been convicted of assault on a police officer was not improper on basis that the entry had relevance as showing victim's propensity for violence and aggressive behavior thus bolstering defendant's claim of self-defense, where the docket entry disclosed only that victim had been convicted under this section making criminal nonviolent obstruction of police officer in performance of his duty as well as assault and physical interference; and the proffer was inadequate to apprise the court of the relevance of the evidence. *A. Jones v. United States of America* (1967, 385 F. 2d 296, 128 U.S. App. D.C. 36).

§ 22-507. Threats to do bodily harm.

NOTES TO DECISIONS

Assistance of counsel

The record did not sustain the claim of ineffective assistance of counsel who was a defense attorney with many years of experience and who presented all substantial defenses, made appropriate motions and objections, attempted to suppress the evidence on the charge of unlawful possession of a pistol after conviction of a felony, and was able to obtain acquittal on a charge of threats to do bodily harm and directed verdict in defendant's favor on a charge of assault by threatening in a menacing manner. *I. Gressette v. United States* (D.C. App. 1969, 256 A. 2d 418).

Collateral attack on judgment

Bringing of motion for trial court to exercise its inherent power to vacate a sentence and to resentence defendant, thereby restoring him to status of one upon whom sentence has just been passed and who is allowed ten days thereafter in which to note his appeals is the correct procedure for the initiation of a collateral attack upon a judgment or sentence. *G. A. Hines v. United States* (D.C. App. 1968, 237 A. 2d 827).

Timely notice of appeal

Failure to file timely notice of appeal deprived the District of Columbia Court of Appeals of jurisdiction over a direct appeal. *G. A. Hines v. United States* (D.C. App. 1968, 237 A. 2d 827).

Chapter 7.—BRIBERY—OBSTRUCTING JUSTICE

§ 22-702. Offering or receiving money, property, or valuable consideration to procure office or promotion from District of Columbia Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 22-703. Obstructing justice.

(a) Whoever corruptly, by threats or force, endeavors to influence, intimidate, or impede any juror, witness, or officer in any court in the District in the discharge of his duties, or, by threats or force, in any other way obstructs or impedes or endeavors to obstruct or impede the due administration of justice therein, or whoever willfully endeavors by means of bribery, misrepresentation, intimidation, or force or threats of force, to obstruct, delay, or prevent the communication to an investigator of the District of

Columbia government by any person of information relating to a violation of any criminal statute in effect in the District of Columbia, or injures any person or his property on account of the giving by such person or by any other person of such information to any such investigator in the course of the conduct of any criminal investigation, shall be fined not more than \$1,000 or be imprisoned not more than three years, or both.

(b) As used in this section, the term "criminal investigation" means an investigation relating to a violation of any criminal statute in effect in the District of Columbia, and the term "investigator" means an individual duly authorized by the Commissioner or his designated agent to conduct or engage in such an investigation. (Mar. 3, 1901, 31 Stat. 1330, ch. 854, § 862; Dec. 27, 1967, Pub. L. 90-226, § 401, title IV, 81 Stat. 736.)

AMENDMENT

1967—Section 401, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions of section prior to this amendment, see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 22-704. Corrupt influence—Officials.

NOTES TO DECISIONS

Evidence—Sufficiency

Evidence was sufficient to show a mutual knowledge of a common criminal enterprise. *L. Wallace et al. v. United States* (1969, 412 F. 2d 1097, — U.S. App. D.C. —).

Recorded evidence—admissibility

Defendant who was charged with conspiracy to violate bribery statute was not in a position to challenge manner in which recordings, which contained admissions by codefendants through use of informer, were obtained. *L. Wallace et al. v. United States* (1969, 412 F. 2d 1097, — U.S. App. D.C. —).

Chapter 8.—CRUELTY TO ANIMALS

§ 22-801. Definition and penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-802, 22-806, 22-807, 22-809, 22-811 to 22-813.

§§ 22-802 to 22-805.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 22-806 22-812, 22-813.

§ 22-806. Prosecution of offenders—Disposition of fines.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-812, 22-813.

§ 22-807 to 22-809, 22-811.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 22-806, 22-812, 22-813.

§§ 22-813, 22-814.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 22-806.

Chapter 9.—DOMESTIC RELATIONS

§ 22-903. Wilful neglect or refusal to support wife or minor child—Punishment—Order of allowance—Recognizance—Trial under original charge.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-523, 11-1556, 16-2355, 16-2381, 16-2383, 22-904 to 22-906.

§ 22-904. Evidence of marriage—Competency of witnesses—Proof of wilful desertion.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-523, 11-1556, 16-2355, 16-2381, 22-905, 22-906.

§ 22-905. Weekly payments by superintendent of workhouse for each day's confinement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-523, 11-1556, 16-2381, 16-2355, 22-904, 22-906.

Chapter 11.—DISORDERLY CONDUCT

Sec.

22-1122. Rioting or inciting to riot—Penalties.

§ 22-1107. Unlawful assembly—Profane and indecent language.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in section 23-101a.

NOTES TO DECISIONS

Advisory opinions on appeal

Where Court of General Sessions of the District of Columbia granted motion to dismiss disorderly conduct charge on several grounds but subsequently vacated dismissal with respect to jurisdictional ground only and question of prosecutorial authority was certified to Court of Appeals, any action Court of Appeals might take on certified question could not alter dismissal of charges and hence certificate was dismissed. *District of Columbia v. M. S. Barry et al.* (1967, 387 F. 2d 860, 128 U.S. App. D.C. 295).

Appeal and error

Court of Appeals, on appeal from conviction for disorderly conduct and simple assault, was reluctant to determine whether police department form containing information as to time, place and date of offense, name of complainant, names and addresses of witnesses, and description of details of offense was produceable under Jencks Act but would give trial court opportunity in first instance to decide issue of produceability under established guidelines. *C. Duncan, Jr. v. United States and District of Columbia* (1967, 379 F. 2d 148, 126 U.S. App. D.C. 371).

If trial court, in determining issue of produceability of police report form under Jencks Act, found that statement should have been made available, error in failing to require production of statement would not be harmless and would require new trial on charges of disorderly conduct and simple assault. *Id.*

Applicability of Jencks rule

Jencks rule of evidence applies in District of Columbia Court of General Sessions whether case is prosecuted by

District of Columbia or by United States. *C. Duncan, Jr. v. United States and District of Columbia* (1967, 379 F. 2d 148, 126 U.S. App. D.C. 371).

Arrest, validity of

Arrest of defendant for use toward officer of abusive, insulting, obscene language in protest against direction that he and a group of others on sidewalk move on was valid. *G. A. Williams v. District of Columbia* (D.C. App. 1967, 227 A. 2d 60).

Congregating and assembling

Defendant could not have been convicted of engaging in loud and boisterous talking and other disorderly conduct since requisite element of congregating and assembling was neither charged nor proved. *W. R. Franklin v. District of Columbia* (D.C. App. 1968, 248 A. 2d 677).

Defendant could not have been convicted of fighting in street since proof was that incident occurred inside police station. *Id.*

The "Congregate and assemble" provision of this section requires presence of three or more persons acting in concert for an unlawful purpose. *A. Kinoy v. District of Columbia* (1968, 400 F. 2d 761, 130 U.S. App. D.C. 290).

Under this section making it illegal for person or persons to congregate and assemble and to engage in loud and boisterous talking or disorderly conduct, a "congregation" requires at least three persons. *Id.*

Under this section there can be no "unlawful assembly" where only two persons at the most are assembled. *Id.*

At common law the mere act of assembling was not unlawful, unless it was for an unlawful purpose. Neither is a peaceful assembly unlawful under this section. It does not condemn the mere act of assembling on the street, but prohibits assembling and congregating, coupled with the doing of the forbidden acts. In other words, at common law the assembly must be for an unlawful purpose, and when three or more persons so assembled the offense was complete without the commission of any additional overt criminal act; but here it requires both the assembly and the commission of one of the acts forbidden by the statute to constitute unlawful assembly. Both the assembling and the overt act are essential to make the offense. *G. S. Hunter et al. v. District of Columbia* (1918, 47 App. D.C. 406).

Corporation Counsel's authority to prosecute

Under statute restricting corporation counsel's authority to cases in which punishment is fine only or imprisonment not to exceed one year, corporation counsel lacked authority to initiate prosecution for disorderly conduct which was punishable by fine of not more than \$250 or imprisonment of not more than 90 days, or both. *District of Columbia v. Mark Grimes* (1968, 404 F. 2d 1337, 131 U.S. App. D.C. 360).

Double jeopardy

There was no double jeopardy when a defendant, after having been convicted of disorderly conduct, was prosecuted for assaulting a police officer, notwithstanding fact that both incidents occurred in relatively short span of time and at same place. *H. Harris v. United States* (1968, 402 F. 2d 205, 131 U.S. App. D.C. 64).

Element of offense

The opinion in a prior case suggested that it was not necessary to a conviction for disorderly conduct that the words used have tended to provoke a breach of the peace, but even assuming that such requirement existed, it was satisfied by showing that defendant had stated to police officers "You m-----r f-----s keep out of this" since words uttered were indecent, obscene and patently offensive "fighting words" whose very use not only inflicted injury but tended to provoke an immediate breach of peace. *W. R. Franklin v. District of Columbia* (D.C. App. 1968, 248 A. 2d 677).

Consequential or probable breach of the peace is not an element of offense under statute making it unlawful to curse, swear, or use profane language or indecent or obscene words in any public way. *G. A. Williams v. District of Columbia* (D.C. App. 1967, 227 A. 2d 60).

Dismissal of charge under general disorderly conduct statute removed need for finding that breach of the peace was threatened by offensive language of defendant, who was also charged with use of profane language or indecent or obscene words on public sidewalk. *Id.*

Evidence—Admissibility

Where evidence had been admitted that a telephone line identifier had been connected to defendant's telephone, testimony of a security officer of telephone company that the records of the company showed that the number from which harassing calls to complainant originated was private listing registered to the defendant was merely cumulative and its admission, if error, was harmless, on a charge of disorderly conduct consisting of making harassing telephone calls to the home of complainant. *J. Coleman v. District of Columbia* (D.C. App. 1969, 250 A. 2d 555).

Evidence—Sufficiency

Evidence sustained conviction of assault, public intoxication and disorderly conduct in violation of District of Columbia Code. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Evidence supported conviction of defendant for using profane language, indecent and obscene words, on public sidewalk. *G. A. Williams v. District of Columbia* (D.C. App. 1967, 227 A. 2d 60).

Information—Sufficiency of

In a case where the information charged a violation of a statute forbidding persons to congregate and assemble on public street and crowd, obstruct, or incommode the free use of the street failed to charge that the act was done under circumstances threatening a breach of peace, it did not charge an offense and conviction on it could not stand. *J. P. Adams v. United States* (D.C. App. 1969, 256 A. 2d 563).

An information charging defendants with congregating and assembling on a certain avenue, and then and there crowding, obstructing, and incommoding the free use of the sidewalk thereof, contrary to and in violation of this section, is insufficient, though drawn in the language of the statute, because it fails to set out the facts constituting the offense with sufficient clearness to apprise defendants of the charge they are to meet, or to inform the court of their sufficiency to sustain a conviction. *G. S. Hunter et al. v. District of Columbia* (1918, 47 App. D.C. 406).

Information charging defendant during peace demonstration with disorderly conduct in that she did with intent to provoke breach of peace congregate with others on public street and on grounds of United States Capitol, and did refuse to move, which failed to specify which of several potentially applicable statutes was basis of prosecution, was insufficient. *D. Feeley v. District of Columbia* (1967, 387 F. 2d 216, 128 U.S. App. D.C. 258).

Defendants, who were arrested after refusing to move out of corridor in House wing of Capitol building when ordered to do so by Capitol police, were entitled to know with certainty offense with which they were charged and possible penalty threatened and were entitled to definite reference to the law which they had allegedly violated, and thus where, notwithstanding request of defense, no one had given citation of statute under which prosecution was being had, other than statement of prosecutor that two sections were involved, convictions under section carrying lighter sentence, as requested by prosecutor, were required to be set aside. *D. Smith et al. v. District of Columbia* (1967, 387 F. 2d 233, 128 U.S. App. D.C. 275).

Issues of fact

The accuracy of telephone company's procedure in registering harassing telephone calls made to complainant's home was for the trial court, on a charge of disorderly conduct consisting of making harassing telephone calls. *J. Coleman v. District of Columbia* (D.C. App. 1969, 250 A. 2d 555).

Whether a defendant, who was charged with assault, public intoxication and disorderly conduct in violation of District of Columbia Code, had mental disease which should have excused him from criminal responsibility was issue of ultimate fact for the trier thereof. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Preservation of community moral standards

The prohibition of and, if required, prosecution for use of obscene and profane language in public may be

upheld upon interest of state in preserving community moral standards. *G. A. Williams v. District of Columbia* (D.C. App. 1967, 227 A. 2d 60).

Unlawful assembly, defined

An attorney representing a client who had been subpoenaed to appear before the House Un-American Activities Committee could not be convicted of a violation of this section for conduct which led to his forceful removal from committee room by order of subcommittee chairman acting alone in violation of committee rules, where attorney could not have been properly charged with assembling and congregating, an essential element of offense, and an attorney representing a client could not come within the definition of unlawful assembly. *A. Kinoy v. District of Columbia* (1968, 400 F. 2d 761, 130 U.S. App. D.C. 290).

Weight of evidence

Weight to be given testimony of witnesses who related that the conduct of the defendant at time of alleged assault, public intoxication and disorderly conduct, in violation of District of Columbia Code, and shortly thereafter was bizarre and the weight to be given testimony of government witness who related that the defendant was intoxicated at the time of alleged offenses and that assault was triggered by refusal to serve him beer was for the trier of fact. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

§ 22-1109. Throwing stones or other missiles forbidden.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 22-812.

§ 22-1112. Lewd, indecent, or obscene acts.**CROSS REFERENCE**

For other provisions dealing with obscene matters see sec. 22-2001.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-109, 23-101a.

NOTES TO DECISIONS**Abuse of court's discretion**

Denial of defendant's motion to vacate a judgment of conviction on a plea of guilty on the ground that manifest injustice occurred because court appointed same counsel to represent both defendants was not an abuse of discretion under the record. *M. E. Lord Jr. v. District of Columbia* (D.C. App. 1967, 235 A. 2d 322).

Admission by defendant

Admission by defendant that he was present in washroom when officer entered eliminated necessity for corroboration of presence of officer and defendant at the time and place of alleged lewd, obscene, and indecent act in the washroom, in case wherein there was testimony of only one witness to the act, namely, the officer. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 26 A. 2d 581).

Assumption by reviewing court

In view of citation to court of general sessions of decision laying down rule that testimony of a single witness to verbal invitation to sodomy should be received and considered with great caution, in case wherein there was testimony of only one witness to the charged lewd, obscene, and indecent act, reviewing court was required to assume that Court of General Sessions was fully aware of the rules announced in that decision and that the testimony of the witness had been received and considered with great caution. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 226 A. 2d 581).

Burden of proof

The evidence adduced at habeas corpus proceeding did not support the trial court's finding that petitioner, who had originally been committed under the District of Columbia Sexual Psychopath Act, was likely to inflict injury, loss, pain or other evil on others by his sexual misconduct if he were released. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Habeas corpus petitioner who had been committed under the District of Columbia Sexual Psychopath Act had

the burden to show that his past behavior, examined under the illumination provided by psychiatric evaluation of those actions, did not justify conclusion that he fell within statutory definition of one who was likely to inflict injury on others. *Id.*

Whether habeas corpus petitioner who was committed under the District of Columbia Sexual Psychopath Act should be released on habeas corpus would be determined on likelihood that he would, if released, be dangerous to others because of sexual misconduct. *Id.*

Petitioner who was confined in hospital pursuant to proceeding under District of Columbia Sexual Psychopath Act had the burden to show by a preponderance of the evidence that his continued confinement as sexual psychopath was not justified. *Id.*

Character evidence

Trial court, which expressly commented on evidence of good character of defendant convicted of committing lewd, obscene, and indecent act in department store restroom, had given due consideration to the character evidence. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 226 A. 2d 581).

Conditions justifying commitment

Predictions of dangerousness which would justify commitment under the District of Columbia Sexual Psychopath Act requires determination of type of conduct of which individual may engage; likelihood or probability that he will indulge in that conduct; and effect that such conduct if engaged in will have on others. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

In determining what acts may be considered in applying District of Columbia Sexual Psychopath Act, court must read "sexual" in common meaning of that term. *Id.*

Corroboration of single witness

In cases wherein testimony of only one witness to verbal invitation to sodomy is introduced, the trial court should require corroboration of the circumstances surrounding the parties at the time, such as presence at the alleged time and place and similar provable circumstances. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 226 A. 2d 581).

In cases wherein testimony of only one witness to verbal invitation to sodomy is introduced, evidence of good character is particularly applicable. *Id.*

Testimony of a single witness to a verbal invitation to sodomy should be received and considered with great caution. *Id.*

Due Process

Since a proceeding under District of Columbia Sexual Psychopath Act is closely related to behavior of person rather than to his mental condition considered apart from his behavior, constitutional guaranties implicit in due process of law must come into play. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Entrapment

Evidence did not support contention made for first time on appeal from conviction for committing lewd, obscene, and indecent act that defendant had been entrapped. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 226 A. 2d 581).

Evidence

Failure of the trial court in habeas corpus proceeding to distinguish between petitioner's sexual and nonsexual misconduct as a reason for his commitment under District of Columbia Sexual Psychopath Act and trial court's failure to evaluate the likelihood, as opposed to mere possibility, that petitioner would engage in sexual misconduct if released constituted reversible error. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Evidence in habeas corpus proceeding established that if released, the petitioner, who had been committed under District of Columbia Sexual Psychopath Act, would be unlikely to engage in sexual misconduct other than exhibitionism. *Id.*

Evidence at habeas corpus proceeding established that likelihood of serious injury to a child who might see the

petitioner expose himself in public was too remote to justify commitment under District of Columbia Sexual Psychopath Act. *Id.*

Evidence at habeas corpus proceeding established that future sexual misconduct of petitioner, if any, was not sufficiently likely to cause kind of harm required by District of Columbia Sexual Psychopath Act to justify further commitment. *Id.*

Nonproduction of possible witness

That an unidentified man left washroom immediately prior to arrest of defendant for committing lewd, indecent, and obscene act there and that arresting officer did not detain the man or obtain his name and address did not give rise to presumption that the unidentified man's testimony would not have supported officer's testimony, in absence of solid foundation indicating that unidentified man had witnessed the acts and conduct of defendant. *L. D. Reed v. District of Columbia* (D.C. App. 1967, 226 A. 2d 581).

"Not insane" construed

The words "not insane" as used in District of Columbia Sexual Psychopath Act means "not mentally ill." *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

When words "not insane" in District of Columbia Sexual Psychopath law is read to mean "not mentally ill" the sole justification for commitment under the act is the patient's dangerousness. *Id.*

§ 22-1114. Disturbing religious congregation.

NOTES TO DECISIONS

Forfeiture of collateral

Forfeitures of collateral security could not be vacated on application made more than 30 days after forfeiture, despite claim that defendants had misunderstood or were misinformed as to date set for trial or were under impression that cases were further continued, where there was no testimony by defendants to this effect and counsel were fully aware of situation. *District of Columbia v. H. Evans et al.* (D.C. App. 1967, 225 A. 2d 309).

§ 22-1115. Interference with foreign diplomatic and consular offices, officers, and property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-1116.

§ 22-1121. Disorderly conduct—Generally.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-109.

NOTES TO DECISIONS

Amendment of information

Amendment of information charging that defendant did interfere with person by jostling against such person and by placing hand in proximity of such person's pocket book and handbag by addition of statutory language of intent to provoke breach of peace or under circumstances that breach of peace may be occasioned thereby was not prejudicial to defendant's defense and was properly allowed. *K. M. Sams v. District of Columbia* (D.C. App. 1968, 244 A. 2d 479).

Construction

The qualifying language of the general disorderly conduct statute—"under circumstances such that a breach of the peace may be occasioned thereby"—need not be read into statute making it unlawful to curse, swear, or make use of profane language or indecent or obscene words in any public way. *G. A. Williams v. District of Columbia* (D.C. App. 1967, 227 A. 2d 60).

Enactments like statute prohibiting cursing, swearing, or using profane language or indecent or obscene words in public ways must contain qualifying language, and the qualifications must be applied within the framework of the clear and present danger test; otherwise they violate First Amendment. *Id.*

Elements of offense

While one of the elements of offense of disorderly conduct under statute is that the conduct must occur

with intent to provoke a breach of the peace or occur under circumstances such that a breach of the peace may be occasioned thereby, it is not necessary in every case for the information to follow the precise language of the statute. *District of Columbia v. T. Jordan* (D.C. App. 1967, 232 A. 2d 298).

Evidence—Sufficiency of

Evidence was sufficient to sustain conviction of disorderly conduct. *K. M. Sams v. District of Columbia* (D.C. App. 1968, 244 A. 2d 479).

Indictment

Allegation of information charging that defendant was then and there a peeping Tom sufficiently charged that defendant's conduct was under circumstances such that a breach of the peace might be occasioned thereby, and information was not defective on grounds that it did not charge that defendant acted with an intent to provoke a breach of the peace or under circumstances such that a breach of the peace might be occasioned thereby. *District of Columbia v. T. Jordan* (D.C. App. 1967, 232 A. 2d 298).

Information—Sufficiency of

Informations charging defendants with jostling which failed to set forth names of the alleged victims was not a fatal omission. *K. M. Sams et ano. v. District of Columbia* (D.C. App. 1969, 249 A. 2d 230).

Informations which charged defendants with jostling and failed to allege that jostling was with intent to provoke a breach of peace or under circumstances such that a breach of the peace may be occasioned thereby did not require reversal where no objection to informations on this ground was made, and no showing of prejudice to either defendant was made. *Id.*

Information charging defendant arrested during peace demonstration with disorderly conduct in that she did with intent to provoke breach of peace congregate with others on public street and on grounds of United States Capitol, and did refuse to move, which failed to specify which of several potentially applicable statutes was basis of prosecution, was insufficient. *D. Feeley v. District of Columbia* (1967, 387 F. 2d 216, 128 U.S. App. D.C. 258).

Defendants, who were arrested after refusing to move out of corridor in House wing of Capitol building when ordered to do so by Capitol police, were entitled to know with certainty offense with which they were charged and possible penalty threatened and were entitled to definite reference to the law which they had allegedly violated, and thus where, notwithstanding request of defense, no one had given citation of statute under which prosecution was being had, other than statement of prosecutor that two sections were involved, convictions under section carrying lighter sentence, as requested by prosecutor, were required to be set aside. *D. Smith et al. v. District of Columbia* (1967, 387 F. 2d 233, 128 U.S. App. D.C. 275).

§ 22-1122. Rioting or inciting to riot—Penalties.

(a) A riot in the District of Columbia is a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct or the threat thereof creates grave danger of damage or injury to property or persons.

(b) Whoever willfully engages in a riot in the District of Columbia shall be punished by imprisonment for not more than one year or a fine of not more than \$1,000, or both.

(c) Whoever willfully incites or urges other persons to engage in a riot shall be punished by imprisonment for not more than one year or a fine of not more than \$1,000, or both.

(d) If in the course and as a result of a riot a person suffers serious bodily harm or there is property damage in excess of \$5,000, every person who willfully incited or urged others to engage in the riot shall be punished by imprisonment for not more than

ten years or a fine of not more than \$10,000, or both. (Dec. 27, 1967, Pub. L. 90-226, § 901, title IX, 81 Stat. 742.)

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301, and enactments of sections 4-140a, 4-150a, and 22-1122, and amendments of 18 U.S.C. 4122, 5024, and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

CROSS REFERENCES

Disqualification from holding any position in the District of Columbia Government, for five years, after conviction of inciting a riot or civil disorder, see 5 U.S.C. § 7313.

Other provisions relating to civil disorders, penalties and definitions, see 18 U.S.C. §§ 231-233.

Other provisions relating to riots, see 18 U.S.C. §§ 2101-2.

NOTES TO DECISIONS

Constitutionality

The word "engages" as used in statute prohibiting willfully engaging in a riot was not so vague as to make statute unconstitutional. *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 110).

Where indictments uniformly accused the defendants in other counts with burglary and often larceny as well, which took place at same time and same place, riot statute that was basically concerned with conduct rather than free expression did not unconstitutionally intrude on defendants' First Amendment rights. *Id.*

A riot statute may limit speech under certain circumstances. *Id.*

Evidence

The defendants need not have been acting in concert in order to be convicted of engaging in a riot and proof as to conduct of each defendant was proof as to other two. *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 119).

Since evidence of a riot includes proof of assemblage, proof of acts of other two defendants would be admissible with respect to acts of any one defendant. *Id.*

Indictment

A failure to allege an unlawful entry in count charging second-degree burglary amounted to no more than harmless error. *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 110).

Since no indictment for a violation of riot statute had been returned charging engaging in riot alone but rather always that count was coupled with counts charging burglary and grand or petty larceny, the grand jury considered engaging in a riot in violation of statute in conjunction with separate but immediately related criminal conduct and there was no loose, unguided approach to indictments returned by grand jury under riot statute that would deprive defendants of their constitutional rights. *Id.*

Joint trial

By participating in a mob-like action, defendants had made themselves liable to a joint trial on count charging engaging in a riot. *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 119).

Chapter 12.—EMBEZZLEMENT

§ 22-1201. Embezzlement of property of District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-1204.

§ 22-1202. Embezzlement by agent, attorney, clerk, servant, or agent of a corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1203 to 22-1205, 22-1207.

§ 22-1203. Embezzlement of note not delivered.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1204, 22-1207.

§§ 22-1204 to 22-1206.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 22-1207.

§ 22-1207. Punishment for violations of sections 22-1202 to 22-1206.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-1409.

§ 22-1211. Taking property without right.

NOTES TO DECISIONS

Construction

Statute relating to taking and carrying away of another's property without right to do so describes a misdemeanor and can be violated without specific intent, and provides a deterrent to self-help by a winning gambler without rejecting principle that specific intent turns on actor's state of mind, not upon an objective fact. *J. W. Richardson v. United States* (1968, 403 F. 2d 574, 131 U.S. App. D.C. 168).

Lesser included offense rule

Lesser included offense rule was properly applied when court instructed jury that the offense of larceny from interstate commerce, for which offense appellant was charged, included the lesser offense of taking property without right, an offense for which appellant was not charged, and, since sentence for taking property without right ran concurrently with sentence for unlawful entry, court need not consider claim of error predicated on the instruction. *W. E. Humphrey v. United States* (D.C. App. 1967, 236 A. 2d 438).

Thief

"Thief" is used generically in vagrancy statute and may be defined as one who takes property of another without knowledge or consent of latter; and a conviction under this section making it a misdemeanor to take and carry away property of another without right to do so rendered convict a "known thief" for purposes of vagrancy statute. *Harris v. District of Columbia* (D.C. Mun. App. 1957, 132 A. 2d 152; reversed 251 F. 2d 913, 102 U.S. App. D.C. 202).

The word "thief" as used in section 22-3302 does not cover a person who has been guilty only of unauthorized borrowing. *Harris v. District of Columbia* (1958, 251 F. 2d 913, 102 U.S. App. D.C. 202).

Chapter 13.—FALSE PRETENSES—FALSE PERSONATION

§ 22-1301. False pretenses.

NOTES TO DECISIONS

Elements of crime

Elements of false pretenses are false representation, knowledge of falsity, intent to defraud, reliance by defrauded party, and obtaining something of value. *R. A. Willgoos v. United States* (D.C. App. 1967, 228 A. 2d 635).

Evidence

Evidence did not sustain conviction of obtaining hotel lodging under false pretenses, notwithstanding defendant's failure to pay within one week after checking out,

in view of showing of defendant's efforts to pay. *R. A. Willgoos v. United States* (D.C. App. 1967, 228 A. 2d 635).

Knowledge of falsity

Finding of knowledge of falsity may be based on reasonable inferences from concrete facts in evidence, including conduct of parties to transaction, their utterances, the position occupied by accused, and all circumstances surrounding the transaction. *R. A. Willgoos v. United States* (D.C. App. 1967, 228 A. 2d 635).

§ 22-1303. False personation before court, officers, notaries.

NOTES TO DECISIONS

Requiring defendant to be sworn as witness

By requiring defendant, prior to trial judge's ruling on extent to which trial judge would permit defendant to be impeached by his past record, to take witness stand and be sworn as a witness before jury, trial judge pre-empted defendant's discretion regarding his decision whether to testify in his own behalf and, therefore, committed prejudicial error. *J. H. Jones v. United States* (D.C. App. 1968, 243 A. 2d 674).

§ 22-1304. Falsely impersonating public officer or minister.

NOTES TO DECISIONS

Reversal on grounds of inadequate defense

Conviction for impersonating an officer was reversed and new trial ordered in view of defense's failure to call defendant to stand to rebut government's evidence that badge displayed by defendant who contended that he had exhibited a special police officer badge was not of the type officially issued to special police officers, failure to subpoena an allegedly material witness, presence of hearsay testimony and closeness of case. *E. E. Dyer v. United States* (1967, 379 F. 2d 89, 126 U.S. App. D.C. 312).

Chapter 14.—FORGERY—FRAUDS

§ 22-1401. Forgery.

NOTES TO DECISIONS

Evidence

Testimony and manner in which it was given, with defendant's acquiescence, in forgery prosecution, supported inference that signatures had not been authorized by person whose signatures they purported to be. *W. E. Hough v. United States* (1968, 397 F. 2d 708, 130 U.S. App. D.C. 147).

Any error in forgery prosecution in permitting store manager to testify to policy store had adopted in effort to catch people who had been stealing money orders and checks was harmless in light of all evidence. *Id.*

§ 22-1405. Taking away or concealing writings.

NOTES TO DECISIONS

Copies of former wills

The court held that it is the clear import of existing statutes, that copies of former wills, whether executed or unexecuted, must be made available to the court under threat of criminal penalty. *C. H. Doherty, Sr., et al. v. V. Fairall, et al.* (1969, 413 F. 2d 381, — U.S. App. D. C. —).

§ 22-1408. Manufacture, sale, offer for sale, possession of slugs or device to operate coin-controlled mechanism.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-1409.

§ 22-1411. Fraudulent advertising.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1412, 22-1413.

§ 22-1414. Fraudulently tampering with jury box or contents—Collusion in drawing jurors.

If any person shall fraudulently tamper with any box or wheel used or intended by the jury commission for the names of prospective jurors, or of prospective condemnation jurors or commissioners, or shall

fraudulently tamper with the contents of any such box, or wheel or with any jury list, or be guilty of any fraud or collusion with respect to the drawing of jurors or condemnation jurors or commissioners, or if any jury commissioner shall put in or leave out of any such box or wheel the name of any person at the request of such person, or at the request of any other person, or if any jury commissioner shall wilfully draw from any such box or wheel a greater number of names than is required by the court, any such person or jury commissioner so offending shall for each offense be punished by a fine of not more than \$500 or imprisonment in the District jail or workhouse for not more than one year, or both. (Mar. 3, 1901, 31 Stat. 1223, ch. 854, § 213; Apr. 19, 1920, 41 Stat. 560, ch. 153, § 213; Mar. 27, 1968, Pub. L. 90-274, § 103(f), 82 Stat. 63.)

AMENDMENTS

1968—Section 103(f), act Mar. 27, 1968, Pub. L. 90-274, amended section by inserting "or wheel" after the word "box" each time it appears in the section.

EFFECTIVE DATE OF AMENDMENT AND APPLICABILITY IN CERTAIN CASES

Section 104, act Mar. 27, 1968, Pub. L. 90-274, provided that: "This Act [Repealing, §§ 7-213a, 13-701, 11-2301 through 11-2305 (except the last par. of 11-2302) 11-2307 through 11-2312, amending §§ 7-318, 11-2306, 16-1312, 16-1357 and 22-1414] shall become effective two hundred and seventy days after the date of enactment: *Provided*, That this Act shall not apply in any case in which an indictment has been returned or petit jury empaneled prior to such effective date."

SHORT TITLE

The enacting clause of act Mar. 27, 1968, Pub. L. 90-274, provides: "That this Act [Amending chapter 121 of title 28, U.S. Code and certain other sections of title 28, U.S. Code; repealing sections 7-213a, 13-701, 11-2301, 11-2302 in part, 11-2303 to 11-2305, and 11-2307 to 11-2312 inclusive and amending sections 7-318, 16-1312, 16-1357, 22-1414 and 11-2306] may be cited as the 'Jury Selection and Service Act of 1968'".

Chapter 15.—GAMBLING

§ 22-1501. Lotteries—Promotion—Sale or possession of tickets.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1502, 22-1505, 23-301, 23-304, 23-305.

NOTES TO DECISIONS

Evidence—Admissibility

Even if documents which the defendant, charged with violation of lottery laws, sought to introduce into evidence showed that others were engaging in activities which the defendant considered to be lotteries uncondemned by law, the offer was insufficient to show statutory discrimination in violation of statute and court properly refused to admit same. *J. S. Washington v. United States* (1968, 401 F. 2d 915, 130 U.S. App. D.C. 374).

Possession of tickets

Possession of number slips is prima facie evidence of possessor's involvement in an illegal lottery. *\$1,407.00 in United States Currency, et ano. v. District of Columbia* (D.C. App. 1968, 242 A. 2d 217).

Prima facie evidence

The appellant's possession of numbers paraphernalia on premises was prima facie evidence of her participation in illegal lottery. *\$3,265.28 in United States Currency, et al. v. District of Columbia* (D.C. App. 1969, 249 A. 2d 516).

§ 22-1502. Possession of lottery or policy tickets.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-304 to 23-306.

NOTES TO DECISIONS

Condemnation and forfeiture

Condemnation and forfeiture of moneys seized from defendant's person at time of his arrest was warranted by evidence, including evidence that defendant attempted to conceal the money from the arresting officers and that, although he claimed that moneys seized represented savings which he intended to use to purchase a business, he was admittedly unfamiliar with business which he claimed to be planning to purchase, the person from whom he expected to make the purchase and the terms of the purchase. *\$1,407.00 in United States Currency, et ano. v. District of Columbia* (D.C. App. 1968, 242 A. 2d 217).

Court's failure to rule on admissibility of evidence

In a case where there was considerable oral testimony from arresting officers that number slips were found in the front bedroom occupied by defendant, trial court's failure to rule on government's exhibits consisting of seized number slips and other documents in bedrooms and hallway of house occupied by defendant prior to beginning of defendant's case, although constituting error, was not prejudicial because of defendant's failure to bring the matter to court's attention and obtain a ruling. *L. Harris v. United States* (D.C. App. 1969, 254 A. 2d 726).

To prove defendant's possession of number slips it is not essential that the slips be received in evidence. *Id.*

Evidence—Sufficiency of

Evidence was sufficient to sustain conviction for possession of numbers slips. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Ruling of district court as binding on Court of General Sessions

United States district court decision, in prosecution for narcotics violation, which suppressed certain evidence as products of illegal search and seizure was not binding on District of Columbia Court of General Sessions, where defendant was charged with possession of prohibited weapon and possession of numbers slips, and which had held previously to United States District Court ruling that certain evidence, which was seized under same circumstances as evidence in federal prosecution, was admissible. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Search and seizure

A defendant, who was lawfully arrested for operating automobile without valid permit, was taken to police station in his own automobile, and charged with driving without a valid permit, possession of prohibited weapon and possession of numbers slips, but did not protest or withhold his consent to use by police of his automobile to drive him to police station and was not coerced in any way, there was no seizure of defendant's automobile by police prior to arrival at police station. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

§ 22-1503. Permitting sale of lottery tickets on premises.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-301, 23-304.

§ 22-1504. Gaming—Setting up gaming table—Inducing play.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1502, 22-1505, 22-1507, 23-301, 23-304.

§ 22-1505. Gambling premises—Definition—Prohibition against maintaining—Forfeiture—Liens—Deposit of moneys in Treasury—Penalty—Subsequent offenses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1507, 23-301, 23-304.

NOTES TO DECISIONS

Condemnation and forfeiture

Condemnation and forfeiture of moneys seized from defendant's person at time of his arrest was warranted by evidence, including evidence that defendant attempted to conceal the money from the arresting officers and that, although he claimed that money seized represented savings which he intended to use to purchase a business, he was admittedly unfamiliar with business which he claimed to be planning to purchase, the person from whom he expected to make the purchase and the terms of the purchase. *\$1,407.00 in United States Currency, et ano. v. District of Columbia* (D.C. App. 1968, 242 A. 2d 217).

Evidence—Sufficiency

Evidence was sufficient to support forfeiture judgment in relation to money allegedly used in carrying on or conducting a lottery. *\$6,200.00 in United States Currency v. District of Columbia* (D.C. App. 1969, 250 A. 2d 551).

A showing by preponderance of the evidence that moneys found on defendant were in fact used or to be used in an unlawful gambling operation is sufficient to meet statutory test required for forfeiture of property. *\$1,407.00 in United States Currency et ano. v. District of Columbia* (D.C. App. 1968, 242 A. 2d 217).

Nature of libel action

Libel actions for forfeiture of monies used or to be used in carrying on lottery are civil in nature and government need only prove its case by preponderance of the evidence. *\$3,265.28 in United States Currency, et al. v. District of Columbia* (D.C. App. 1969, 249 A. 2d 516).

§ 22-1506. Three-card monte and confidence games.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1507, 23-304.

§ 22-1507. "Gaming table" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-301, 23-304.

§ 22-1508. Gambling pools and bookmaking—Athletic contest defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1502, 23-301, 23-304.

§ 22-1509. Bucketing, and bucket-shopping and bucket-shops—Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1510 to 22-1512.

§ 22-1510. Penalty for bucketing or keeping bucketshop.

CODIFICATION

The reference to section 23-1509 in the second line of this section as it appears in the main edition is an error. It should read 22-1509.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1509, 22-1511, 22-1512.

§ 22-1511. Penalty for communicating, receiving, exhibiting, or displaying quotations of prices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1509, 22-1510, 22-1512.

§ 22-1512. Bucketing—Written statement to be furnished—Contents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1509 to 22-1511.

§ 22-1513. Corrupt influence in connection with athletic contests.

* * * * *

(f) Nothing in this section shall be construed to prohibit the giving or offering of any bonus or extra compensation to any manager, coach, or professional player, or to any league, association, or conference for the purpose of encouraging such manager, coach, or player to a higher degree of skill, ability, or diligence in the performance of his duties. (As amended, Dec. 27, 1967, Pub. L. 90-226, § 604, title VI, 81 Stat. 737.)

AMENDMENT

1967—Section 604, Act Dec. 27, 1967, Pub. L. 90-226, amended section by adding subsection "f".

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

Chapter 16.—GAME AND FISH LAWS

§ 22-1628. Commissioners' authority with respect to wild animals, fishing licenses, and migratory birds—Exception—"Wild Animals" defined.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(204) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to restricting, prohibiting, regulating, and controlling hunting and fishing and the taking, possession, and sale of wild animals, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 22-1629. Inspection of business or vocational establishments requiring a license or permit or any vehicle, boat, market box, market stall or cold storage plant, during business hours.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 22-1630. Seizure of hunting and fishing equipment by police officer—Return of seized property upon acquittal—Forfeiture of seized property upon conviction and sale at public auction—Disposal of proceeds of sale—Disposal of property not sold at auction—Payment of valid liens after sale of seized property.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(205) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) as provided in the last sentence of the subsection, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 22-1632. Delegation of functions by Secretary of Interior and Commissioners—Commissioners authorized to make regulations subject to approval of Secretary of Interior where they involve areas under his jurisdiction—Definition of “Commissioners” and “Secretary of Interior” for purposes of chapter.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 17.—HARBOR REGULATIONS

§ 22-1701. Harbor regulations—Authority vested in Commissioners to make—Federal approval if affecting navigable waters—Parks and waterfront—Penalty.

* * * * *

The commissioners of the District of Columbia are hereby vested with authority to make harbor regulations for the entire water-front of the city within the District of Columbia, to alter and amend the same from time to time as they may find necessary: *Provided*, That whenever these regulations affect navigable waters, channels, and anchorage areas or other interests of the United States, such regulations shall be subject to the approval of the Secretary of Transportation: *And provided further*, That whenever said regulations affect the water-front within the District of Columbia under the jurisdiction of the Director of the National Park Service, or affect the interests and rights of the National Capital Planning Commission, such regulations shall be subject to prior approval of the respective agencies. (Mar. 3, 1901, 31 Stat. 1335, ch. 854, § 895; June 30, 1902, 32 Stat. 535, ch. 1329; Feb. 8, 1904, 33 Stat. 11, ch. 152, §§ 1, 2; June 6, 1924, ch. 270, § 9, as added July 19, 1952, 66 Stat. 790, ch. 949, § 1; June 15, 1934, 48 Stat. 963, ch. 536; Oct. 15, 1966, Pub. L. 89-670, § 6(g)(1), 80 Stat. 940.)

CODIFICATION

“Secretary of Transportation” was substituted in the fourth paragraph of this section for “Secretary of the Army”, on the authority of section 6(g)(1) of the act of Oct. 15, 1966, Pub. L. 89-670, which transferred to and vested in the Secretary of Transportation, all functions, powers and duties of the Secretary of the Army relating to water vessel anchorages.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(206) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 22-1702. Throwing or depositing matter in Potomac River.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 22-1703. Deposits of deleterious matter in Rock Creek or Potomac River.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-1703a.

Chapter 18.—BURGLARY

Sec.
22-1801. Burglary—Penalties.

§ 22-1801. Burglary—Penalties.

(a) Whoever shall, either in the nighttime or in the daytime, break and enter, or enter without breaking, any dwelling, or room used as a sleeping apartment in any building, with intent to break and carry away any part thereof, or any fixture or other thing attached to or connected thereto or to commit any criminal offense, shall, if any person is in any part of such dwelling or sleeping apartment at the time of such breaking and entering, or entering without breaking, be guilty of burglary in the first degree. Burglary in the first degree shall be punished by imprisonment for not less than five years nor more than thirty years.

(b) Except as provided in subsection (a) of this section, whoever shall, either in the night or in the daytime, break and enter, or enter without breaking, any dwelling, bank, store, warehouse, shop, stable, or other building or any apartment or room, whether at the time occupied or not, or any steamboat, canalboat, vessel, or other watercraft, or railroad car or any yard where any lumber, coal, or other goods or chattels are deposited and kept for the purpose of trade, with intent to break and carry away any part thereof or any fixture or other thing attached to or connected with the same, or to commit any criminal offense, shall be guilty of burglary in the second degree. Burglary in the second degree shall be punished by imprisonment for not less than two years

nor more than fifteen years. (Mar. 3, 1901, 31 Stat. 1323, ch. 854, § 823; Dec. 27, 1967, Pub. L. 90-226, § 602, title VI, 81 Stat. 736.)

AMENDMENT

1967—Section 602, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions prior to this amendment see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whcever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, Provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4-140.

NOTES TO DECISIONS

Arrest and search

Examination of the trunk of defendant's automobile did not constitute an illegal search by the police where it occurred contemporaneously with and at place of defendant's arrest under circumstances indicating convincingly defendant's participation in burglary. *R. Wright, Jr. v. United States* (1968, 404 F. 2d 1256, 131 U.S. App. D.C. 279)

Concurrent sentences

There was no resulting prejudice to a defendant in a case where concurrent sentences were imposed for crimes of carnal knowledge and housebreaking, as a result of error, if any, in failing to make out a prima facie case of housebreaking. *P. E. A. Duckett v. United States* (1969, 410 F. 2d 1004, — U.S. App. D.C. —).

Defendant's absence during trial

Where record on appeal from convictions for housebreaking, arson, and malicious destruction of personal property failed to show that defendant's absence during trial, after trial had commenced in his presence, constituted deliberate failure to appear without reason that might bear on court's latitude to have continued trial, case would be remanded for development of such issue including circumstances in which defendant was taken into custody after trial. *M. Cureton v. United States* (1968, 396 F. 2d 671, 130 U.S. App. D.C. 22).

Evidence—Sufficiency

In this case the evidence in prosecution of defendant for attempted burglary permitted inference of an intent to commit a crime to be made by the jury who was found in warehouse amongst scattered papers, opened desk drawers and office machinery which had been moved into hall. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 483).

In this case the evidence presented by the government in a prosecution for housebreaking and grand larceny was so compelling that, even if the police station confrontation between defendant and two prosecution witnesses was improper and in-court identification of defendant was not shown by clear and convincing evidence to have an independent source, error, if any, in the in-court identifications was harmless. *G. R. Taylor v. United States* (1969, 414 F. 2d 1142, — U.S. App. D.C. —).

Evidence was sufficient in juvenile court proceeding to support finding that the minor was guilty of housebreaking and petty larceny. *In the Matter of N. M. Ellis* (D.C. App. 1969, 253 A. 2d 789).

Defendant's responsibility for housebreaking was established by being with those who broke store window coupled with his flight with stolen goods. *Id.*

Evidence that tenant heard what sounded like someone attempting to enter vacant apartment and that defendant and companion were seen leaving building and fled when pursued by officer was sufficient to sustain conviction of attempted housebreaking. *T. H. Adams v. United States* (D.C. App. 1968, 245 A. 2d 640).

Evidence of eyewitness, corroborated by physical details otherwise in evidence, supported verdicts finding defendants guilty of first-degree murder and housebreaking. *R. T. Brown, J. D. Irby and R. L. Jones v. United States* (1967, 375 F. 2d 310, 126 U.S. App. D.C. 134).

Inconsistent verdict

The trial court could have found defendant, who was carrying goods stolen from an apartment building, which he later abandoned when he attempted to flee, guilty of both attempted burglary and petit larceny charges on inference of guilt raised by defendant's unexplained possession of recently stolen property or even on the basis of this inference the trier of the facts could have had a reasonable doubt that defendant had necessary criminal intent upon entering apartment building to be convicted of attempted burglary, and thus verdicts of acquittal on attempted burglary charge and guilty on petit larceny charge were not necessarily inconsistent irreconcilable. *H. Barnes v. United States* (D.C. App. 1969, 254 A. 2d 724).

Evidence was sufficient to sustain petit larceny conviction. *Id.*

Indictment

A failure to allege an unlawful entry in count charging second-degree burglary amounted to no more than harmless error *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 110).

Since no indictment for a violation of riot statute had been returned charging engaging in riot alone but rather always that count was coupled with counts charging burglary and grand or petty larceny, the grand jury considered engaging in a riot in violation of statute in conjunction with separate but immediately related criminal conduct and there was no loose, unguided approach to indictments returned by grand jury under riot statute that would deprive defendants of their constitutional rights. *Id.*

Instructions

In this case, since the jury had convicted defendant of more serious crime of attempted burglary, any error in instruction on lesser included offense of unlawful entry was not demonstrated to be prejudicial. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 843).

Charge to jury fairly covered alibi defense of defendant, who was charged on counts of housebreaking and grand larceny, and also adequately indicated substance of defendant's position that he had no obligation to show that another was actually the transgressor. *R. Wright, Jr. v. United States* (1968, 404 F. 2d 1256, 131 U.S. App. D.C. 279).

Where defense counsel, in response to inquiry by federal District Court in prosecution for housebreaking, expressed satisfaction with instructions given, and defendant was convicted on strong evidence, defendant could not require Court of Appeals to exercise discretion available under provision of Federal Rule of Criminal Procedure that plain errors or defects affecting substantial rights may be noticed though they were not brought to attention of court. *H. Manning v. United States* (1966, 371 F. 2d 353, 125 U.S. App. D.C. 256).

Intent

Crucial element of offense of second-degree burglary is the specific intent which impelled entry and not the lawful or unlawful manner of entry. *United States v. J. Jeffries et al.* (1968, 45 F.R.D. 110).

Unlawful entry bears heavily on question of defendant's intent to commit second-degree burglary but it is not a prerequisite to the establishment of such an intent. *Id.*

Lesser included offense

Except for the requirement of intent to commit crime, unlawful entry is substantially identical to and hence lesser included offense of burglary in second degree. *P. E. Hebble v. United States* (D.C. App. 1969, 257 A. 2d 483).

One man showup

Where an intruder broke into the apartment of two women, and shortly thereafter was arrested as a suspect, and about 30 minutes after the attack the women were asked to come down to the street in front of their apartment and view defendant who was the sole occupant of patrol wagon, use of "one-man showup" did not deny defendant due process of law. *G. W. Bates v. United States* (1968, 405 F. 2d 1104, 132 U.S. App. D.C. 36).

Probable cause

The record in this case which discloses that one of two boys apprehended at the scene of housebreaking accompanied officers to apartment and identified the defendant as person who had entered store across street from apartment disclosed so small a probability that probable cause for arrest was lacking that unraised issue of probable cause would not be considered as plain error. *J. Washington v. United States* (1969, 414 F. 2d 1119, — U.S. App. D.C. —).

Sentences

Under the facts of this case where defendant's true crime was burglary in the second degree, a felony carrying a mandatory minimum sentence of two years, and prosecution reduced felony to the three separate misdemeanors of attempted burglary in second degree, destroying private property, and petit larceny, trial judge did not abuse discretion in imposing two consecutive one-year sentences and one concurrent one-year sentence following defendant's conviction on all three separate misdemeanors. *R. M. Weeks v. United States* (D.C. App. 1969, 252 A. 2d 907).

Chapter 20.—OBSCENITY**Sec.**

22-2001. Certain obscene activities and conduct declared unlawful—Definitions—Penalties—Affirmative defenses—Exception.

§ 22-2001. Certain obscene activities and conduct declared unlawful—Definitions—Penalties—Affirmative defenses—Exception.

(a)(1) It shall be unlawful in the District of Columbia for a person knowingly—

(A) to sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide any obscene, indecent, or filthy writing, picture, sound recording, or other article or representation;

(B) to present, direct, act in, or otherwise participate in the preparation or presentation of, any obscene, indecent, or filthy play, dance, motion picture, or other performance;

(C) to pose for, model for, print, record, compose, edit, write, publish, or otherwise participate in preparing for publication, exhibition, or sale, any obscene, indecent, or filthy writing, picture, sound recording, or other article or representation;

(D) to sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute or provide any article, thing, or device which is intended for or represented as being for indecent or immoral use;

(E) to create, buy, procure, or possess any matter described in the preceding subparagraphs of this paragraph with intent to disseminate such matter in violation of this subsection;

(F) to advertise or otherwise promote the sale of any matter described in the preceding subparagraphs of this paragraph; or

(G) to advertise or otherwise promote the sale of material represented or held out by such person to be obscene.

(2) (A) For purposes of subparagraph (E) of paragraph (1) of this subsection, the creation, purchase, procurement, or possession of a mold, engraved plate, or other embodiment of obscenity specially adapted for reproducing multiple copies or the possession of more than three copies, of obscene, indecent, or filthy material shall be prima facie evidence of an intent to disseminate such material in violation of this subsection.

(B) For purposes of paragraph (1) of this subsection, the term "knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any article, thing, device, performance, or representation described in paragraph (1) of this subsection which is reasonably susceptible of examination.

(3) When any person is convicted of a violation of this subsection, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of any materials described in paragraph (1), which were named in the charge against such person and which were found in the possession or under the control of such person at the time of his arrest.

(b)(1) It shall be unlawful in the District of Columbia for any person knowingly—

(A) to sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide to a minor—

(i) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body, which depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or

(ii) any book, magazine, or other printed matter however reproduced or sound recording, which depicts nudity, sexual conduct, or sado-masochistic abuse or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or

(B) to exhibit to a minor, or to sell or provide to a minor an admission ticket to, or pass to, or to admit a minor to, premises whereon there is exhibited, a motion picture, show, or other presentation which, in whole or in part, depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors.

(2) For purposes of paragraph (1) of this subsection:

(A) The term “minor” means any person under the age of seventeen years.

(B) The term “nudity” includes the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

(C) The term “sexual conduct” includes acts of sodomy, masturbation, homosexuality, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

(D) The term “sexual excitement” includes the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(E) The term “sado-masochistic abuse” includes flagellation or torture by or upon a person clad in undergarments or a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(F) The term “knowingly” means having a general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both of—

(i) the character and content of any material described in paragraph (1) of this subsection which is reasonably susceptible of examination by the defendant; and

(ii) the age of the minor.

(c) It shall be an affirmative defense to a charge of violating subsection (a) or (b) of this section that the dissemination was to institutions or individuals having scientific, educational, or other special justification for possession of such material.

(d) Nothing in this section shall apply to a licensee under the Communications Act of 1934 while engaged in activities regulated pursuant to such Act.

(e) A person convicted of violating subsection (a) or (b) of this section shall for the first offense be fined not more than \$3,000 or imprisoned not more than one year, or both. A person convicted of a second or subsequent offense under subsection (a) or (b) of this section shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned not less than six months or more than three years, or both. (Mar. 3, 1901, 31 Stat. 1332, ch. 854, § 872; Dec. 27, 1967, Pub. L. 90-226, § 606, title VI, 81 Stat. 738.)

REFERENCE IN TEXT

The Communication Act of 1934, referred to in subsection (d) is set out in Chapter 5 of title 47, U.S. Code.

AMENDMENT

1967—Section 606, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions of section prior to this amendment see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a

and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, “Sentence for offenses committed prior to Dec. 27, 1967.”] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

CROSS REFERENCES

For provisions relating to obscene or harassing telephone calls, see 47 U.S.C. § 223.

For other provisions dealing with lewd, indecent or obscene acts, see secs. 22-1112, 22-3501.

NOTES TO DECISIONS

Government’s burden of proof

In obscenity case involving question of whether a local burlesque show was obscene, Government was required to offer competent evidence to prove relevant community standards prevailing in nation generally, and by failing to do so, Government failed to establish an essential element of the crime charged. *L. M. Hudson et al. v. United States* (D.C. App. 1967, 234 A. 2d 903).

“Obscene” defined

As used in statutory language, the word “obscene” is intended to have a meaning that varies from time to time as general notions of decency in attire and conduct of exhibitions for public entertainment tend to change. *L. M. Hudson et al. v. United States* (D.C. App. 1967, 234 A. 2d 903).

In the District of Columbia, community standards in obscenity cases shall be determined by a reference to contemporary community standards in the nation as a whole. *Id.*

Chapter 22.—LARCENY—RECEIVING STOLEN GOODS

§ 22-2201. Grand larceny.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4-140.

NOTES TO DECISIONS

Arrest and search

Examination of the trunk of defendant’s automobile did not constitute an illegal search by the police where it occurred contemporaneously with and at place of defendant’s arrest under circumstances indicating convincingly defendant’s participation in burglary. *R. Wright, Jr. v. United States* (1968, 404 F. 2d 1256, 131 U.S. App. D.C. 279).

Evidence—Sufficiency

In this case the evidence presented by the government in a prosecution for housebreaking and grand larceny was so compelling that, even if the police station confrontation between defendant and two prosecution witnesses, was improper and in-court identification of defendant was not shown by clear and convincing evidence to have an independent source, error, if any, in the in-court identifications was harmless. *G. R. Taylor v. United States* (1969, 414 F. 2d 1142, — U.S. App. D.C. —).

Instructions

Charge to jury fairly covered alibi defense of defendant, who was charged on counts of housebreaking and grand larceny, and also adequately indicated substance of defendant’s position that he had no obligation to show that another was actually the transgressor. *R. Wright, Jr. v. United States* (1968, 404 F. 2d 1256, — U.S. App. D.C. —).

Withholding of evidence by government

Record in proceeding for habeas corpus or new trial alleging that evidence in government’s possession was not disclosed at petitioner’s trial on charge of grand larceny

by trick established that government was not negligent in not disclosing evidence consisting of check drawn by bank to replenish its supply of \$1,000 bills and statement of bank officer relating to alleged exchange of \$1,000 bills for \$20 bills, but rather established that such information was not sufficiently probative or material to require disclosure to defense. *M. M. Levin v. N. deB. Katzenbach* (1966, 262 F. Supp. 951).

Record in proceeding for habeas corpus or new trial alleging that evidence in government's possession was not disclosed at petitioner's trial on charge of grand larceny by trick failed to establish that jury might have been led to entertain reasonable doubt as to petitioner's guilt had defense been able to show that bank officers did not remember changing \$1,000 bills, which were subject of alleged larceny, into smaller ones. *Id.*

§ 22-2202. Petit larceny—Order of restitution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-306.

NOTES TO DECISIONS

Applicability of Miranda rule

Principles of Miranda did not apply to statements made by defendant, when he was stopped and asked if automobile was his, and if the property taken from the automobile belonged to him, and asked the license number of the automobile, where appellant was detained only because officer felt his conduct required investigation and defendant was questioned briefly and his answers were uncoerced and voluntary. This does not constitute custodial interrogation. *T. A. Green v. United States* (D.C. App. 1967, 234 A. 2d 177).

Cause for arrest

Where a police officer had a conversation with the victim of an assault and petit larceny and proceeded in patrol car in search of the assailants, and the stolen articles were in plain view of officer in defendant's hand and at his feet in the gutter, an arrest was authorized when the officer saw the stolen articles. *R. L. Thompkins v. United States* (D.C. App. 1969, 251 A. 2d 636).

Where in making an initial stop of the defendant the officer was engaged in routine on-the-street investigation in nearby area of a crime minutes after it occurred in an early hour of the morning in his effort to find perpetrator while the trail was still warm, and under these circumstances the initial stop of defendant was neither an arrest nor an arbitrary detention, but arrest occurred after officer saw the articles which fit description of stolen property, which gave sufficient cause to arrest, and seizure was not invalid. *Id.*

Consecutive sentences for two separate offenses

The distinctions that assault and petit larceny are separate and distinct offenses requiring different elements of proof, and that one is a crime of general intent against the person, and the other a crime of specific intent against property, are no longer conclusive in determining the legality of consecutive sentences for two crimes committed in a single course of conduct. *G. Mahoney v. United States* (D.C. App. 1968, 243 A. 2d 684).

The compelling reasons which call for the application of the rule of lenity are absent in this case, and there is no substantial doubt Congress would have intended, in the discretion of the court, that consecutive punishment be imposed for historically separate offenses, against different societal interests, for which it has provided separate deterrents. *Id.*

Criminal intent

The fact that defendant placed meat in shopping bag in self-service store did not provide valid reason for trial court in prosecution for petit larceny to infer a criminal intent or a possession clearly adverse to interests of store, where an attempt by defendant to conceal the meat was not proven. *S. A. Durphy v. United States* (D.C. App. 1967, 235 A. 2d 326).

Establishment of corpus delicti

To establish the corpus delicti of the crime of larceny, the Government must prove that the property was lost by the owner as a result of a felonious taking; the "corpus

delicti" consists of proof that the crime charged was committed by someone. *T. Williams and B. L. Short v. United States* (D.C. App. 1969, 254 A. 2d 722).

Evidence of prior conviction

Permitting impeachment by prior petit larceny conviction relating to defendant's credibility was a proper exercise of judicial discretion in subsequent petit larceny prosecution. *A. E. Bullock v. United States* (D.C. App. 1968, 243 A. 2d 677).

Allowing government to question defendant accused of petit larceny as to his former larceny convictions did not constitute an abuse of discretion in view of fact that trial judge fully instructed jury that they were to consider such evidence only in connection with their evaluation of credence to be given defendant's testimony and that prior convictions were in no way evidence of defendant's guilt of present charge. *F. Ginyard v. United States* (D.C. App. 1967, 232 A. 2d 590).

Evidence—Sufficiency

Evidence was not sufficient to sustain a conviction for aiding and abetting petit larceny on a showing that at time officer observed suspected criminal activity defendant was standing near the right side of automobile at a point somewhere between automobile, which contained wine and beer allegedly stolen from store, and the store. *T. Williams and B. L. Short v. United States* (D.C. App. 1969, 254 A. 2d 722).

Evidence did not sustain conviction of petit larceny of wine and beer in violation of District Code. *Id.*

Evidence was sufficient in juvenile court proceeding to support finding that the minor was guilty of housebreaking and petty larceny. *In the Matter of N. M. Ellis* (D.C. App. 1969, 253 A. 2d 789).

Defendant's responsibility for housebreaking was established by being with those who broke store window coupled with his flight with stolen goods. *Id.*

Evidence was sufficient to sustain conviction for petit larceny. *L. L. Cooper v. United States* (D.C. App. 1969, 248 A. 2d 826).

Evidence was sufficient to sustain conviction of petit larceny allegedly committed by obtaining money from complaining witness by trick through procedure variously known as "flimflam," "faith and trust," or "confidence game," whereby defendant and another, ostensibly strangers to each other, persuaded victim to turn over to one of them a sum of money to demonstrate victim's trustworthiness as a prerequisite to obtaining easy money, even though defendant's partner was never apprehended. *J. J. Few v. United States* (D.C. App. 1968, 248 A. 2d 125).

Evidence that fingerprints of defendant appeared on glass surface, which had once been outside surface of drugstore entrance was insufficient to sustain conviction of attempted housebreaking, destroying property, and petit larceny. *A. W. Townsley v. United States* (D.C. App. 1967, 236 A. 2d 63).

Evidence was insufficient to sustain petit larceny conviction of defendant who placed meat in shopping bag in self-service store. *S. A. Durphy v. United States* (D.C. App. 1967, 235 A. 2d 326).

On the record the evidence was sufficient to sustain defendant's conviction of petit larceny in taking property from parked automobile. *T. A. Green v. United States* (D.C. App. 1967, 234 A. 2d 177).

Evidence, including evidence as to exclusive control or possession of television in defendant, sustained conviction for unlawful entry and petit larceny. *J. L. Benbow v. United States* (D.C. App. 1967, 227 A. 2d 772).

Cigarettes found in defendants' possession, with same "wholesale numbers" as cigarettes left in store, but not otherwise identified as having come from store, had little, if any, probative value. *S. C. Davis and C. L. Colbert v. United States* (D.C. App. 1967, 230 A. 2d 485).

Evidence of defendants' physical and chronological proximity to scene of housebreaking, and their leaving at a trot, was insufficient to sustain conviction for attempted housebreaking and petit larceny. *Id.*

Conviction of petit larceny for taking money by means of "film-flam" operation in which alleged accomplice persuaded victim to give him his money to be hidden in a handkerchief was not supported by evidence in absence

of showing that any words were spoken by defendant implicating him in the crime, that any inducements were made to victim by defendant, that defendant put any money in the handkerchief, that defendant had anything to do with the hiding or that there was any criminal association or conspiracy between purported accomplice and defendant. *C. E. McMillan v. United States* (D.C. App. 1967, 230 A. 2d 715).

Evidence was ample to establish the offenses of petit larceny beyond a reasonable doubt. *V. J. Bond, Jr. v. United States* (D.C. App. 1967, 230 A. 2d 485).

— Suppression

Denial of a motion to suppress evidence relating to stolen property and to narcotics paraphernalia found on the defendants after the arrest for a pedestrian traffic violation was proper. *J. R. West et ano. v. United States* (D.C. App. 1969, 249 A. 2d 740).

Fraud or trick

"Larceny" exists where there is a taking, against owner's will or without his consent, of thing which is subject of the crime. *W. W. Reed v. United States* (D.C. App. 1968, 239 A. 2d 156).

Taking of property by person who obtains its possession by means of fraud or trickery with preconceived design to appropriate it to his own use constitutes "larceny". *Id.*

Defendant who, with a companion, invited prosecuting witness to join them on visit to a prostitute and, en route, induced prosecuting witness to demonstrate his trust in defendant and companion by turning over his money to them and permitting them to walk around the block, and who then failed to return, was guilty of petit larceny. *Id.*

Where defendant, after approaching complaining witness and another person on street suggested that defendant could take witness and other person to place where they could have good time, and witness was called upon to prove trust by giving his money to defendant who was to walk around block with money, and defendant after turning corner and being confronted by police detective ran away, offense of petit larceny by trick was completed when defendant deviated from agreed course around block. *H. L. Williams v. United States* (D.C. App. 1968, 240 A. 2d 131).

Impeachment

Regardless of a claim of prejudice by reason of similarity between offenses of robbery and housebreaking, permitting impeachment of the defendant, charged with housebreaking but found guilty of petit larceny, by evidence as to one prior robbery conviction was not error. *A. Moss v. United States* (D.C. App. 1969, 250 A. 2d 567).

Inconsistent verdict

The trial court could have found defendant, who was carrying goods stolen from an apartment building, which he later abandoned when he attempted to flee, guilty of both attempted burglary and petit larceny charges on inference of guilt raised by defendant's unexplained possession of recently stolen property or even on the basis of this inference the trier of the facts could have had a reasonable doubt that defendant had necessary criminal intent upon entering apartment building to be convicted of attempted burglary, and thus verdicts of acquittal on attempted burglary charge and guilty on petit larceny charge were not necessarily inconsistent or irreconcilable. *H. Barnes v. United States* (D.C. App. 1969, 254 A. 2d 724).

Evidence was sufficient to sustain petit larceny conviction. *Id.*

Ineffective assistance of counsel

Fact that new counsel was appointed not more than 60 minutes before trial did not amount to ineffective assistance of counsel of defendant charged with simple assault, unlawful entry and petit larceny where no continuance was requested and defendant announced he was ready for trial, factual situation was not so complex as to necessitate any extensive investigation and there were no witnesses for the defense who could have been called, new counsel was experienced and diligent and made no claim that he was hampered by appointment shortly before trial. *S. A. Tuttle v. United States* (D.C. App. 1968, 238 A. 2d 590).

Instructions

Instructions given by trial judge in prosecution for petit larceny was comprehensive and clearly presented to jury the elements of asportation and intent. *F. Ginyard v. United States* (D.C. App. 1967, 232 A. 2d 590).

Prejudgment of guilt

Record would not substantiate contention that trial judge had prejudged question of defendant's guilt of petit larceny by trick. *H. L. Williams v. United States* (D.C. App. 1968, 240 A. 2d 131).

Review

The question of appellant's guilt or innocence turned solely on credibility of witnesses, and issue was to be determined by trier of fact and was not subject to review. *T. A. Green v. United States* (D.C. App. 1967, 234 A. 2d 177).

Right to stenographic record

Where reviewing court was supplied with statement which presented in considerable detail events of the trial, the testimony, and ruling of the trial judge, and furnished counsel with complete picture of proceedings, defendants were not prejudiced by failure to have the case stenographically reported and were not entitled to have their convictions for petit larceny and larceny from interstate shipment set aside. *F. House and S. Brandon v. United States* (D.C. App. 1967, 234 A. 2d 805).

Sentences

Under the facts of this case where defendant's true crime was burglary in the second degree, a felony carrying a mandatory minimum sentence of two years, and prosecution reduced felony to the three separate misdemeanors of attempted burglary in second degree, destroying private property, and petit larceny, trial judge did not abuse discretion in imposing two consecutive one-year sentences and one concurrent one-year sentence following defendant's conviction on all three separate misdemeanors. *R. M. Weeks v. United States* (D.C. App. 1969, 252 A. 2d 907).

Validity of arrest

Whether a defendants' arrest on a charge of petit larceny was lawful depended upon arresting officer having probable cause to believe that they had in their possession "fruits of the crime". *S. Smith and W. Jeffries v. United States* (D.C. App. 1968, 247 A. 2d 293).

Validity of verdict

When one juror, on poll of a jury, answered that her vote of guilty on petit larceny charge was conditional, the court should not have required juror to answer "guilty" or "not guilty" but should have returned the jury to jury room for further deliberation, and juror's subsequent response of "guilty" to court's directive did not remove uncertainty of her verdict. *P. E. Matthews v. United States* (D.C. App. 1969, 252 A. 2d 505).

§ 22-2203. Larceny after trust.

NOTES TO DECISIONS

Element of crime of larceny after trust

The fact that preconceived specific intent to deprive owner of possession is not an element of crime of larceny after trust does not preclude evidence which bears upon intent underlying the conversion. *United States v. J. R. Gay* (1969, 410 F. 2d 1036, — U.S. App. D.C. —; rev'g and remanding 241 A. 2d 446).

Elements of offense of "Larceny after trust"

"Larceny after trust" occurs when possession of property is entrusted to a person for purpose of applying property to owner's use and benefit. *W. W. Reed v. United States* (D.C. App. 1968, 239 A. 2d 156).

"Larceny after trust" is committed when person to whom property has been entrusted wrongfully converts it to his own use. *Id.*

Preconceived specific intent to deprive property owner of possession of property is not an element of offense of larceny after trust. *Id.*

For larceny after trust to exist, person to whom possession of property is entrusted must be given actual dominion and control over the property for purpose set forth by owner; a mere temporary custodian cannot commit larceny after trust. *Id.*

Evidence—Sufficiency of

Evidence, including evidence that complainant entrusted money to defendant as real estate broker for express purpose of having it applied as rental on apartment, that apartment was in fact not available, and that defendant kept money and refused to return it, was sufficient for jury in prosecution for larceny after trust. *J. R. Gay v. United States* (D.C. App. 1968, 241 A. 2d 446; rev'd and remanded 410 F. 2d 1036).

Evidence of other offenses

Testimony that defendant took deposit for apartment rental and thereafter neither made apartment available nor returned deposit on occasions other than that which was subject of prosecution for larceny after trust was not admissible within any exception to rule barring evidence of other offenses, and admission was reversible error. *J. R. Gay v. United States* (D.C. App. 1968, 241 A. 2d 446; rev'd and remanded 410 F. 2d 1036).

Evidence of similar criminal acts

The testimony of the witnesses fitted well within the established rule, in this jurisdiction as elsewhere, that a trial judge may allow evidence of similar criminal acts to prove intent if the prejudicial effect of admission is "outweighed by the probative value" of the evidence. *United States v. J. R. Gay* (1969, 410 F. 2d 1036, — U.S. App. D.C. —; rev'g and remanding 241 A. 2d 446).

Fraudulent purpose

The requisite fraudulent purpose may be conceived at various stages in a transaction, and one who takes property in good faith may be convicted if his illegal designs mature after the property is in his possession. However, the essential legislative proscription is of his having "fraudulently converted" the property. *United States v. J. R. Gay* (1969, 410 F. 2d 1036, — U.S. App. D.C. —; rev'g and remanding 241 A. 2d 446).

Statutory definition

The statutory provision for larceny after trust defines a violator as one who is shown to have "fraudulently converted" property entrusted to him. *United States v. J. R. Gay* (1969, 410 F. 2d 1036, — U.S. App. D.C. —; rev'g and remanding 241 A. 2d 446).

Use and benefit

To establish offense of larceny after trust it must be proved that accused was entrusted with something of value, for the use and benefit of complainant, and that it was converted to accused's own use, with intent to deprive complainant of money or property. *J. R. Gay v. United States* (D.C. App. 1968, 241 A. 2d 446; rev'd and remanded 410 F. 2d 1036).

§ 22-2204. Unauthorized use of vehicles.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 4-140.

NOTES TO DECISIONS**Attempted unauthorized use of motor vehicle**

Attempted unauthorized use of a motor vehicle is a crime under statutes prohibiting the taking, use, operation, or removal of a vehicle without owner's consent and calling for punishment of whoever shall attempt to commit any crime, which attempt is not otherwise punishable. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Dismissal with prejudice

Dismissal, with prejudice, of indictment charging defendant with unauthorized use of a vehicle constituted adjudication barring another prosecution for same offense. *J. H. White, Jr. v. United States* (1967, 377 F. 2d 948, 126 U.S. App. D.C. 309).

Evidence

Evidence supported conviction for attempted unauthorized use of motor vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Evidence supported conviction for attempted unauthorized use of automobile. *N. Dickson v. United States* (D.C. App. 1967, 226 A. 2d 364).

— Sufficiency

Evidence was sufficient in a prosecution for attempted and unauthorized use of vehicle to permit trier of fact to find that recovered automobile belonged to government witness and that defendant did not have permission to drive it. *H. E. Waterstaat v. United States* (D.C. App. 1969, 252 A. 2d 507).

Evidence established that defendant was guilty of unauthorized use of vehicle. *United States v. J. W. Carter* (1967, 275 F. Supp. 769).

The record contains sufficient evidence from which the jury could have found or inferred that the car left by owner in the parking garage and the one driven onto the parking lot by appellant were one and the same. *F. E. Wesley v. United States* (D.C. App. 1967, 233 A. 2d 514).

Lapse of time between theft and arrest

Lapse of five days between theft of automobile and arrest of defendant operating it did not insulate him from criminal liability for attempted unauthorized use of motor vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Proof of ownership

Any failure of prosecution to show who owned automobile involved in prosecution for attempted unauthorized use of motor vehicle did not preclude conviction where it was established that ownership was in some third party. *N. Dickson v. United States* (D.C. App. 1967, 226 A. 2d 364).

Rented automobile

Evidence that defendant was afraid to return automobile to rental agency because he was unable to pay rent he owed and absence of evidence that defendant tried to disguise automobile, change license plates or in any other way appropriate it to his exclusive benefit and absence of evidence that rental agency notified defendant that it considered rental contract breached and that defendant would be charged with violation of criminal laws if he failed to return automobile did not establish violation of statute prohibiting unauthorized use of automobile. *United States v. H. B. McLaughlin, Sr.* (1967, 278 F. Supp. 320).

Review

Defendant could not be heard to complain on appeal of conviction for attempted unauthorized use of motor vehicle in view of proof of completion of offense of unauthorized use of the vehicle. *B. O. Greenwood III v. United States* (D.C. App. 1967, 225 A. 2d 878).

Unauthorized use

Unauthorized use statute does not require that automobile be stolen in order to render its use unlawful. *United States v. H. B. McLaughlin, Sr.* (1967, 278 F. Supp. 320).

Under statute prohibiting unauthorized use of automobile, use of rented automobile in excess of express consent given in rental contract is not to be equated with use "without the consent of the owner." *Id.*

§ 22-2205. Receiving stolen goods.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 4-140.

NOTES TO DECISIONS**Evidence**

Where evidence was merely impeaching and was not material to issues involved nor was it probable that in new trial appellant would be acquitted because of it, trial court did not abuse its discretion in denying motion for new trial based upon newly discovered evidence. *W. D. Heard v. United States* (D.C. App. 1968, 245 A. 2d 125).

Instructions

Where instruction on possession in prosecution for receiving stolen goods was full and complete, and defense counsel indicated that he would accept court's ruling on the question, refusal to instruct that defendant must have had exclusive possession was not ground for reversal. *F. H. Scott v. United States* (D.C. App. 1967, 228 A. 2d 637).

Search and seizure

Where officers had valid search warrant and while making search officers found pistol which was not listed in warrant, seizure of pistol which subsequently turned out

to be stolen and which formed basis of prosecution for receiving stolen property was legal. *W. D. Heard v. United States* (D.C. App. 1968, 245 A. 2d 125).

§ 22-2206. Stealing property of District of Columbia.

NOTES TO DECISIONS

Instructions

While facts in case resulting in conviction for stealing property belonging to District of Columbia may have justified a charge limited to elements of larceny, introduction of the words "steal" and "purloin" into the charge placed an obligation on trial judge to explain their meaning and relation to the larceny term. *W. D. Mitchell et al. v. United States* (1968, 394 F. 2d 767, 129 U.S. App. D.C. 292).

Trial judge would not be obligated to delineate the issues of each of the crimes covered by District of Columbia statute prohibiting the embezzlement, stealing or purloining of any property of the District, but he would be obliged to specify the elements of the crime or crimes most closely related to the factual situation. *Id.*

In prosecution for embezzlement, stealing and purloining of property of District of Columbia, while judge did speak of elements of property value and wrongful taking in his charge on robbery counts, it was inadequate to cover the shortcomings of the charge since the taking, constituting an element of robbery, was substantially different from a larceny taking, and trial judge did not refer jury to those portions of his earlier charge. *Id.*

Conviction of defendants under statute relating to the stealing, embezzling or purloining of any money, property, or writing of the District of Columbia, for stealing service revolver of officer, would be reversed where court's charge was inadequate to properly instruct jury upon all crucial elements of the offenses embraced within prosecution's evidence. *Id.*

Construction

Use of words "embezzle, steal or purloin", in District of Columbia statute relating to property of the District, indicated that Congress intended to include in the penalized conduct every offense falling between common-law larceny and embezzlement, so that, at the very least, robbery, embezzlement and larceny of property belonging to the District of Columbia are outlawed by the statute. *W. D. Mitchell et al. v. United States* (1968, 394 F. 2d 767, 129 U.S. App. D.C. 292).

Knowledge of government ownership is a necessary element of offense condemned by statute relating to the embezzlement, stealing or purloining of any money, property or writing of the District of Columbia, since the statute, which provides more severe penalties than other statutes relating to petit larceny and petit embezzlement, would be a greater deterrent only if potential wrongdoers were aware that property they were intending to steal belonged to the District. *Id.*

Chapter 23.—LIBEL—BLACKMAIL

Sec.

- 22-2306. Intent to commit extortion by communication of illegal threats and demands—Penalties.
22-2307. Threatening to kidnap or injure a person or damage his property—Penalty.

§ 22-2301. Libel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2302.

§ 22-2306. Intent to commit extortion by communication of illegal threats and demands—Penalties.

Whoever with intent to extort from any person, firm, association, or corporation, any money or other thing of value: (1) transmits within the District of Columbia any communication containing any demand or request for ransom or reward for the release of any kidnapped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both; (2) transmits within the District of Columbia any communication containing any threat to kidnap any person or any threat to injure

the person of another, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both; or (3) transmits within the District of Columbia any communication containing any threat to injure the property or reputation of the recipient of the communication or of another or the reputation of a deceased person or any threat to accuse the recipient of the communication or any other person of a crime, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. (June 19, 1968, Pub. L. 90-351, § 1501, title X, 82 Stat. 238.)

CODIFICATION

Section 1501 of the act of June 19, 1968, is a part of Pub. L. 90-351, designated by section 1 thereof as the "Omnibus Crime Control and Safe Streets Act of 1968." Sections 1302 and 1502 thereof are classified to sections 23-105 and 22-2307 of this code. For classification of other provisions of Pub. L. 90-351 see distribution tables in the U.S. Code.

§ 22-2307. Threatening to kidnap or injure a person or damage his property—Penalty.

Whoever threatens within the District of Columbia to kidnap any person or to injure the person of another or physically damage the property of any person or of another person, in whole or in part, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. (June 19, 1968, Pub. L. 90-351, § 1502, title X, 82 Stat. 238.)

CODIFICATION

Section 1502 of the act of June 19, 1968, is a part of Pub. L. 90-351, designated by section 1 thereof as the "Omnibus Crime Control and Safe Streets Act of 1968." Sections 1302 and 1501 thereof are classified to sections 23-105 and 22-2306 of this code. For classification of other provisions of Pub. L. 90-351 see distribution tables in the U.S. Code.

Chapter 24.—MURDER—MANSLAUGHTER

§ 22-2401. Murder in the first degree—Purposeful killing—Killing while perpetrating certain crimes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2403.

NOTES TO DECISIONS

Acquittal

Where government was unable to show any motive for killing of victim nor was there any showing of prior threats or quarrels which might supply inference of premeditation and deliberation in defendant's killing of victim by multiple stab wounds inflicted with knife defendant had been carrying with him that night, government's evidence was insufficient to warrant submission of an issue of premeditation and deliberation to jury and defendant's motion for acquittal of first-degree murder should have been granted at conclusion of prosecution's case. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Appreciable time

"Appreciable time" charge in homicide prosecution is a meaningful way to convey to jury the core meaning of premeditation and deliberation and for that reason should be given at least where specifically requested by defense. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Court's refusal in homicide prosecution to state that the time one must have for deliberation be "some appreciable period of time" rather than "some period of time" as originally proposed by judge was compounded by charge of court that the time to deliberate may be in the nature of hours, minutes or seconds. *Id.*

Authority of jury

A jury may consider issue of second-degree murder on an indictment of first-degree felony-murder only if

it finds some defect with proof as to felony-murder. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Evidence—Admissibility

Suspicion of codefendants charged with first-degree murder that some understanding existed that witness, who had also participated in alleged murder, might not be prosecuted or that he believed he would not be, was not sufficient to exclude his otherwise admissible testimony as to details of crime. *R. T. Brown, J. D. Irby and R. L. Jones v. United States* (1967, 375 F. 2d 310, 126 U.S. App. D.C. 134).

— Sufficiency

Evidence, including testimony of girl friend of one defendant as to incriminating statements which both defendants made to her, sustained convictions for felony murder and for attempted robbery. *A. Calloway and T. L. S. McCowey v. United States* (1968, 399 F. 2d 1006, 130 U.S. App. D.C. 273).

Proof in homicide prosecution was legally sufficient to support a verdict predicated on thesis that shotgun was discharged killing victim while a robbery was then being attempted. *E. M. Harrison and O. G. White v. United States* (1967, 387 F. 2d 203, 128 U.S. App. D.C. 245).

Evidence was sufficient to sustain conviction of one defendant of felony murder. *Id.*

Accused who put on defense to first-degree murder case did not thereby waive earlier motion for acquittal or expose himself to death penalty which government was not entitled to pursue in view of fact that at close of prosecution's case defendant was entitled to acquittal of first-degree murder charge because evidence adduced by prosecution was not sufficient to permit a reasonable man to find that elements of first-degree murder existed beyond reasonable doubt. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Evidence of eyewitness, corroborated by physical details otherwise in evidence, supported verdicts finding defendants guilty of first-degree murder and housebreaking. *R. T. Brown, J. D. Irby and R. L. Jones v. United States* (1967, 375 F. 2d 310, 126 U.S. App. D.C. 134).

First degree murder defined

First-degree murder requires premeditation and deliberation and covers calculated and planned killings while homicides that are unplanned or impulsive, even though they are intentional and with malice aforethought, are murder in the second degree. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Intentional murder is in the first degree if committed in cold blood and is murder in the second degree if committed on impulse or in the sudden heat of passion. *Id.*

Instructions

Charge to a jury that in absence of explanatory circumstances the law infers or presumes malice from use of deadly weapon was error. *K. Green v. United States* (1968, 405 F. 2d 1368, 132 U.S. App. D.C. 98).

In homicide prosecution, charge to jury which submitted first-degree murder, second-degree murder, and manslaughter and which contained statement that wrongful act intentionally done was done with malice was prejudicial error. *Id.*

Jury may be instructed on second-degree murder as lesser included offense though indictment is solely for felony-murder. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Where an indictment charged in separate counts both first-degree felony-murder and first-degree premeditated murder and the trial judge charged with respect to both felony-murder and second-degree murder, in the absence of any request, motion or objection by the defendant, failure to further charge that jury, which returned verdicts of guilty both as to felony-murder and as to manslaughter as lesser included offense, should consider question of second-degree murder only if it determined that government had not met its burden as to some element of first-degree murder charged, was not plain error and was not reversible error. *Id.*

Charge in homicide prosecution should focus primarily on defendant's actual thought processes in terms of meditation and conscious weighing of alternatives and the

appreciable time element is subordinate, necessary for but not sufficient to establish deliberation. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Analysis of jury would be illuminated if it is first advised that a typical case of first-degree murder is the murder in cold blood while murder committed on impulse or in sudden passion is murder in the second degree, and then instructed that a homicide conceived in passion constitutes murder in the first degree only if jury is convinced beyond a reasonable doubt that there was an appreciable time after design was conceived and that in this interval there was further thought and a turning over in the mind and not mere persistence of an initial impulse of passion. *Id.*

Lesser included offense

Where an indictment charges felony-murder, a verdict of second-degree murder is appropriate if there is proof from which the jury might reasonably find that defendant did not commit one of the enumerated felonies but was guilty of an intentional killing on impulse, and on this state of proof a charge of second-degree murder as a lesser included offense may be requested by prosecution or defense. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Malice

A wrongful act intentionally done is not therefore done with malice. *K. Green v. United States* (1968, 405 F. 2d 1368, 132 U.S. App. D.C. 98).

Multiple counts

If prosecutor files in two counts of first-degree murder, once a charge of premeditated murder is struck as unsupported by sufficient evidence and that count is reduced to second-degree murder, defendant is entitled, on motion, to have entire count struck and to have issue of guilt as to second-degree murder submitted only as lesser included offense and only in the event of reasonable doubt of guilt of greater offense. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Right to counsel

Government's introduction at third murder trial of crucial testimony given by defendant at his first trial at which he did not have the constitutionally guaranteed right to assistance of counsel, impinged on defendant's constitutional rights requiring a reversal of his conviction for felony murder. *E. M. Harrison and O. G. White v. United States* (1967, 387 F. 2d 203, 128 U.S. App. D.C. 245).

Unlawful killing

Unlawful killing in sudden heat of passion, whether produced by rage, resentment, anger, terror or fear is reduced from murder to manslaughter only if there was adequate provocation, such as might naturally induce a reasonable man in passion of the moment to lose some self-control and commit act on impulse and without reflection. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

§ 22-2402. Murder in first degree—Placing obstructions upon or displacement of railroad.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2403.

NOTES TO DECISIONS

Instructions

Jury may be instructed on second-degree murder as lesser included offense though indictment is solely for felony-murder. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Where an indictment charged in separate counts both first-degree felony-murder and first-degree premeditated murder and the trial judge charged with respect to both felony-murder and second-degree murder, in the absence of any request, motion or objection by the defendant, failure to further charge that jury, which returned verdicts of guilty both as to felony-murder and as to manslaughter as lesser included offense, should consider question of second-degree murder only if it determined that government had not met its burden as to some element of first-degree murder charged, was not plain error and was not reversible error. *Id.*

Multiple counts

If prosecutor files in two counts of first-degree murder, once a charge of premeditated murder is struck as unsupported by sufficient evidence and that count is reduced to second-degree murder, defendant is entitled, on motion, to have entire count struck and to have issue of guilt as to second-degree murder submitted only as lesser included offense and only in the event of reasonable doubt of guilt of greater offense. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

§ 22-2403. Murder in second degree.**NOTES TO DECISIONS****Abuse of discretion**

In a case where a juvenile had killed his father, and several witnesses had testified to juvenile's fear of his father, exclusion of testimony of juvenile's probation officer, that the juvenile had come to the officer several days before the shooting in order to seek his advice concerning the violent outbreaks of the father and that the officer had told juvenile to contact police whenever such outbreaks occurred, was not an abuse of discretion and was not prejudicial since proffered evidence was cumulative and more remote than the evidence already admitted which dealt with juvenile's state of mind on the day in question. *In the Matter of M. Bumphus, Jr.* (D.C. App. 1969, 254 A. 2d 400).

Accidental and unintentional

Even an accidental or unintentional killing will constitute second-degree murder if accompanied by malice. *R. L. Logan v. United States* (1969, 411 F. 2d 679, — U.S. App. D.C. —).

The defendant correctly asserted that the commission of an act, the natural and probable consequences of which are less than death or great bodily harm does not imply malice. *Id.*

Acquittal

Where government was unable to show any motive for killing of victim nor was there any showing of prior threats or quarrels which might supply inference of premeditation and deliberation in defendant's killing of victim by multiple stab wounds inflicted with knife defendant had been carrying with him that night, government's evidence was insufficient to warrant submission of an issue of premeditation and deliberation to jury and defendant's motion for acquittal of first-degree murder should have been granted at conclusion of prosecution's case. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Alternative charge of first- and second-degree murder

Statute defining crimes of first- and second-degree murder do not impel requirement that they be charged in the alternative, as their substantive elements do not conflict. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Appreciable time

"Appreciable time" charge in homicide prosecution is a meaningful way to convey to jury the core meaning of premeditation and deliberation and for that reason should be given at least where specifically requested by defense. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Court's refusal in homicide prosecution to state that the time one must have for deliberation be "some appreciable period of time" rather than "some period of time" as originally proposed by judge was compounded by charge of court that the time to deliberate may be in the nature of hours, minutes, or seconds. *Id.*

Authority of jury

A jury may consider issue of second-degree murder on an indictment of first-degree felony-murder only if it finds some defect with proof as to felony-murder. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Construction

Purpose and effect of the "except" clause in the provision which states that whoever with malice aforethought, except as provided in sections defining first-de-

gree murder, kills another is guilty of second-degree murder is that all homicides with malice are murder and punishable by maximum of life imprisonment set forth for murder in second-degree, except that those particularly heinous murders listed in first-degree section are punishable capitally. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Second-degree murder statute does not define substantive offense of second-degree murder so as to exclude therefrom all crimes that also come within first-degree murder statutes. *Id.*

Cumulative punishment

Although defendant may be found guilty under the first-degree murder and second-degree murder statute does not mean that he is subject to cumulative punishment. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Evidence—Sufficiency

There was ample evidence to support a conviction for second degree murder by willful and malicious actions. *R. L. Logan v. United States* (1969, 411 F. 2d 679, — U.S. App. D.C. —).

Accused who put on defense to first-degree murder case did not thereby waive earlier motion for acquittal or expose himself to death penalty which government was not entitled to pursue in view of fact that at close of prosecution's case defendant was entitled to acquittal of first-degree murder charge because evidence adduced by prosecution was not sufficient to permit a reasonable man to find that elements of first-degree murder existed beyond reasonable doubt. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

First degree murder defined

First-degree murder requires premeditation and deliberation and covers calculated and planned killings while homicides that are unplanned or impulsive, even though they are intentional and with malice aforethought, are murder in the second degree. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Intentional murder is in the first degree if committed in cold blood and is murder in the second degree if committed on impulse or in the sudden heat of passion. *Id.*

Impeachment

Failure of judge to exercise his discretion in admitting or refusing to admit as impeaching evidence three prior assaults of appellant, will not be a basis for reversing conviction. *T. D. Lewis v. United States* (1967, 381 F. 2d 894, 127 U.S. App. D.C. 115).

Instructions

Instruction that if the Government had proved beyond reasonable doubt that defendant had indeed committed acts disclosed by the evidence as a result of which the victim died but that the Government had failed to prove element of malice necessary to second-degree murder, jury may consider whether defendant was guilty of lesser included offense of manslaughter, did not improperly permit the jury to infer requisite malice if they accepted defendant's version that his assault was only of minor dimensions and not by itself sufficient to disclose intent to cause great or serious bodily harm. *R. L. Logan v. United States* (1969, 411 F. 2d 679, — U.S. App. D.C. —).

Charge to a jury that in absence of explanatory circumstances the law infers or presumes malice from use of deadly weapon was error. *K. Green v. United States* (1968, 405 F. 2d 1368, 132 U.S. App. D.C. 98).

In homicide prosecution, charge to jury which submitted first-degree murder, second-degree murder, and manslaughter and which contained statement that wrongful act intentionally done was done with malice was prejudicial error. *Id.*

Jury may be instructed on second-degree murder as lesser included offense though indictment is solely for felony-murder. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Where an indictment charged in separate counts both first-degree felony-murder and first-degree premeditated murder and the trial judge charged with respect to both felony-murder and second-degree murder, in the absence of any request, motion or objection by the defendant,

failure to further charge that jury, which returned verdicts of guilty both as to felony-murder and as to manslaughter as lesser included offense, should consider question of second-degree murder only if it determined that government had not met its burden as to some element of first-degree murder charged, was not plain error and was not reversible error. *Id.*

Charge in homicide prosecution should focus primarily on defendant's actual thought processes in terms of meditation and conscious weighing of alternatives and the appreciable time element is subordinate, necessary for but not sufficient to establish deliberation. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Analysis of jury would be illuminated if it is first advised that a typical case of first-degree murder is the murder in cold blood while murder committed on impulse or in sudden passion is murder in the second degree, and then instructed that a homicide conceived in passion constitutes murder in the first degree only if jury is convinced beyond a reasonable doubt that there was an appreciable time after design was conceived and that in this interval there was further thought and a turning over in the mind and not mere persistence of an initial impulse of passion. *Id.*

Lesser included offense

Instructing on elements of lesser included offense of manslaughter where judge defined only voluntary and not involuntary manslaughter, it was not prejudicial to defendant as improperly precluding jury from rendering a verdict of involuntary manslaughter when defendant did not request involuntary manslaughter instruction, and elements of voluntary manslaughter were properly defined, and trial judge properly emphasized essential distinction between murder and manslaughter and presence or absence of malice. *R. L. Logan v. United States* (1969, 411 F. 2d 679, — U.S. App. D.C. —).

Where an indictment charges felony-murder, a verdict of second-degree murder is appropriate if there is proof from which the jury might reasonably find that defendant did not commit one of the enumerated felonies but was guilty of an intentional killing on impulse, and on this state of proof a charge of second-degree murder as a lesser included offense may be requested by prosecution or defense. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Malice

A wrongful act intentionally done is not therefore done with malice. *K. Green v. United States* (1968, 405 F. 2d 1368, 132 U.S. App. D.C. 98).

Multiple counts

If prosecutor files in two counts of first-degree murder, once a charge of premeditated murder is struck as unsupported by sufficient evidence and that count is reduced to second-degree murder, defendant is entitled, on motion, to have entire count struck and to have issue of guilt as to second-degree murder submitted only as lesser included offense and only in the event of reasonable doubt of guilt of greater offense. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

Sufficiency of record on appeal

Record showed a preponderance of competent evidence to sustain conviction of the juvenile of manslaughter and assault with a deadly weapon, and decision of juvenile court that juvenile was within its jurisdiction and should be committed to custody of Department of Public Welfare for indeterminate period was proper. *In the Matter of M. Bumphus, Jr.* (D.C. App. 1969, 254 A. 2d 400).

Unlawful killing

Unlawful killing in sudden heat of passion, whether produced by rage, resentment, anger, terror or fear is reduced from murder to manslaughter only if there was adequate provocation, such as might naturally induce a reasonable man in passion of the moment to lose some self-control and commit act on impulse and without reflection. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

§ 22-2404. Punishment for murder in first and second degrees.

NOTES TO DECISIONS

Alternative charge of first- and second-degree murder

Statute defining crimes of first- and second-degree murder do not impel requirement that they be charged in the alternative, as their substantive elements do not conflict. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, — U.S. App. D.C. —; cert. denied 89 S. Ct. 999).

Appreciable time

"Appreciable time" charge in homicide prosecution is a meaningful way to convey to jury the core meaning of premeditation and deliberation and for that reason should be given at least where specifically requested by defense. *B. Austin v. United States* (1967, 382 F. 2d 129, 127 U.S. App. D.C. 180).

Court's refusal in homicide prosecution to state that the time one must have for deliberation be "some appreciable period of time" rather than "some period of time" as originally proposed by judge was compounded by charge of court that the time to deliberate may be in the nature of hours, minutes or seconds. *Id.*

Bifurcated trial

Trial court did not abuse its discretion in murder prosecution by denying motion for bifurcated trial with two juries on issues of insanity and defense to the merits. *W. L. Parman v. United States* (1968, 399 F. 2d 559, 130 U.S. App. D.C. 188).

Constitutionality

Statute providing that punishment for first-degree murder should be death unless jury by unanimous vote recommends otherwise did not needlessly penalize assertion of constitutional right and was not unconstitutional. *A. Calloway and T. L. S. McCowey v. United States* (1968, 399 F. 2d 1006, 130 U.S. App. D.C. 273).

Construction

Purpose and effect of the "except" clause in the provision which states that whoever with malice aforethought, except as provided in sections defining first-degree murder, kills another is guilty of second-degree murder is that all homicides with malice are murder and punishable by maximum of life imprisonment set forth for murder in second-degree except that those particularly heinous murders listed in first-degree section are punishable capitally. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, — U.S. App. D.C. —; cert. denied 89 S. Ct. 999).

Second-degree murder statute does not define substantive offense of second-degree murder so as to exclude therefrom all crimes that also come within first-degree murder statutes. *Id.*

Cumulative punishment

Although defendant may be found guilty under the first-degree murder and second-degree murder statute does not mean that he is subject to cumulative punishment. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, — U.S. App. D.C. —; cert. denied 89 S. Ct. 999).

Evidence—Sufficiency

On this motion to vacate sentence for first-degree murder, the only evidence that petitioner consumed large quantities of alcohol prior to his arrest was his own testimony, and the evidence including testimony by police officers which indicated petitioner was not intoxicated, established beyond a reasonable doubt that petitioner was not intoxicated when he made oral confessions to police. *H. F. Jarmans, Jr. v. United States* (1969, 303 F. Supp. 763).

On this motion to vacate sentence for first-degree murder, although expert testimony conflicted as to state of petitioner's mental health at time he made oral inculpatory statements, the evidence established beyond a reasonable doubt that petitioner was without mental illness and that his normal will to protect himself was not impaired when he made inculpatory statements. *Id.*

Proof in homicide prosecution was legally sufficient to support a verdict predicated on thesis that shotgun was discharged killing victim while a robbery was then being attempted. *E. M. Harrison and O. G. White v. United States* (1967, 387 F. 2d 203, 128 U.S. App. D.C. 245).

Evidence was sufficient to sustain conviction of one defendant of felony murder. *Id.*

Right to counsel
Government's introduction at third murder trial of crucial testimony given by defendant at his first trial at which he did not have the constitutionally guaranteed right to assistance of counsel, impinged on defendant's constitutional rights requiring a reversal of his conviction for felony murder. *E. M. Harrison and O. G. White v. United States* (1967, 387 F. 2d 203, 128 U.S. App. D.C. 245).

§ 22-2405. Punishment for manslaughter.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 40-609a.

Chapter 25.—PERJURY

§ 22-2501. Perjury—Subornation of perjury.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 47-1203.

Chapter 26.—PRISON BREACH—MISPRISIONS

§ 22-2601. Prison breach.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 24-203, 24-207.

§ 22-2603. Introducing contraband into penal institution.

TRANSFER OF FUNCTIONS TO COMMISSIONER
Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 27.—PROSTITUTION—PANDERING

§ 22-2701. Prostitution—Inviting for purposes of, prohibited.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2703, 22-3203.

NOTES TO DECISIONS

Double jeopardy
Judgments were required to be vacated and nolle prosequis entered in cases which had been pending before Court of General Sessions where government's action in entering the nolle prosequis could not be characterized as an abuse of its power, and to allow government to file new informations at a subsequent date would not violate double jeopardy clause of Fifth Amendment. *United States v. B. H. Foster* (D.C. App. 1967, 226 A. 2d 164).

Waiver of jury trial
A defendant, charged with solicitation for immoral and lewd purpose of committing oral sodomy, was not entitled to jury trial in view of fact that such offense was not indictable at common law and that penalty imposed was not more than \$250 or imprisonment for not more than 90 days or both. *H. Gaithor v. United States* (D.C. App. 1969, 251 A. 2d 644).

§ 22-2707. Procurer—Punishment for receiving money or other valuable thing for arranging assignation or debauchery—Penalty.

NOTES TO DECISIONS

Attempt
Evidence was sufficient to sustain conviction for attempted procuring, which showed that defendant and complaining witness bargained until they had agreed upon exchange of money, although uncertain in amount, for services of prostitute, and that immediately thereafter defendant led complaining witness a considerable

distance to hotel unknown to witness where prostitute was supposedly waiting. *W. Walker, Jr. v. United States* (D.C. App. 1968, 248 A. 2d 187).

Corroborating witness
Failure of prosecution to produce second officer who as a corroborating witness could only have testified to time and place of defendant's arrest for attempted procuring because he did not hear conversation between arresting officer and defendant was not error in view of prosecution's effort to secure a continuance because second officer was in another court and defendant's then counsel's willingness to proceed to trial in second officer's absence. *R. Blakney v. United States* (D.C. App. 1967, 225 A. 2d 654).

Elements of crime
Two principal elements of crime of procuring are the receipt of money and the arranging of an assignation. *W. Walker, Jr. v. United States* (D.C. App. 1968, 248 A. 2d 187).

§§ 22-2710 to 2712.

SECTIONS REFERRED TO IN OTHER SECTIONS
These sections are referred to in section 22-2714.

§ 22-2713. Premises occupied for lewdness, assignation, or prostitution declared nuisance.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2714, 22-2717, 22-2720, 22-2721.

§ 22-2714. Abatement of nuisance under section 22-2713 by injunction—Temporary injunction—Effect of injunction.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2716, 22-2717, 22-2720, 22-2721.

§§ 22-2715, 22-2716.

SECTIONS REFERRED TO IN OTHER SECTIONS
These sections are referred to in sections 22-2714, 22-2717, 22-2720, 22-2721.

§ 22-2717. Order of abatement—Sale of property—Entry of closed premises punishable as contempt.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2714, 22-2718, 22-2720, 22-2721.

§ 22-2718. Disposition of proceeds of sale.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2714, 22-2717, 22-2720, 22-2721.

§ 22-2719. Bond for abatement—Order for delivery of premises—Effect of release.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2717, 22-2720, 22-2721.

§ 22-2720. Tax for maintaining such nuisance.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2717, 22-2721.

§ 22-2721. Granting immunity to witnesses.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2717, 22-2720.

§ 22-2722. Keeping bawdy or disorderly houses.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-2721, 22-3203.

Chapter 28.—RAPE

§ 22-2801. Definition and penalty.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 22-3501, 24-203.

NOTES TO DECISIONS

Composition of jury

A defendant, convicted of statutory rape, but who was not given death sentence, was not prejudiced by fact that his case was treated as a capital case and people opposed to capital punishment were systematically excluded from jury which found him guilty. *T. M. Springfield v. United States* (1968, 403 F. 2d 572, 131 U.S. App. D.C. 166).

Concurrent sentences

There was no resulting prejudice to a defendant in a case where concurrent sentences were imposed for crimes of carnal knowledge and housebreaking, as a result of error, if any, in failing to make out prima facie case of housebreaking. *P. E. A. Duckett v. United States* (1969, 410 F. 2d 1004, — U.S. App. D.C. —).

Constitutionality

Statute which authorized jury to add words "with the death penalty" to verdict in rape case violates constitutional guarantee of right to jury trial but holding affects only those defendants whose trial began after April 8, 1968; overruling *Lindsey v. United States*, 77 U.S. App. D.C. 1, 133 F. 2d 368. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

The penalty provisions of rape statute which permits jury to inflict capital punishment are unconstitutional because they inhibit defendants from exercising Fifth Amendment right not to plead guilty and Sixth Amendment right to a jury trial. *T. M. Springfield v. United States* (1968, 403 F. 2d 572, 131 U.S. App. D.C. 166).

Corroboration

Corroboration of evidence by medical evidence sustained conviction for carnal knowledge of 15-year-old complainant. *P. E. A. Duckett v. United States* (1969, 410 F. 2d 1004, — U.S. App. D.C. —).

There were sufficient corroborative facts and circumstances to merit submission to jury of a prosecution for carnally knowing female under 16 years of age. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Independent proof must exist that points to probable guilt of the defendant or at least corroborates indirectly testimony of prosecutrix to warrant a conviction of carnally knowing female under 16 years of age. *Id.*

There existed ample corroboration of identification of defendant charged with carnal knowledge to warrant jury to reach the conclusion of guilt. *T. F. Dade v. United States* (1968, 407 F. 2d 692, 132 U.S. App. D.C. 229).

Since prosecutrix in carnal knowledge prosecution positively identified defendant the day following the crime, and her description of event was supported by her prompt report, condition of her clothing, welts on her neck, and her reported emotional condition, and in view of absence of evidence casting doubt on her trustworthiness or credibility of her testimony that she had abundant and unfettered opportunity to observe defendant prior to the crime, her identification did not require further corroboration because of minimal danger of falsification. *G. W. Thomas v. United States* (1967, 387 F. 2d 191, 128 U.S. App. D.C. 233).

Impartial jury

Where on voir dire only those jurors were excluded who could not under any circumstance render verdict of guilty with death penalty and one juror who was opposed to death penalty was seated and actually served, defendants sentenced under Federal Youth Corrections Act, after being found guilty of carnally knowing female under 16 years of age, were not entitled to reversal of conviction on ground that jury was not impartial. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Instructions

Defendants who were convicted of carnally knowing a female under 16 years of age were not prejudiced because jury was instructed that the statute permitted them to impose the death penalty, even though such provision of the statute was constitutionally invalid, where prosecutor specifically stated that he was not going to seek the death penalty and presented no evidence to that end. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Newly discovered evidence

Defendant who was convicted of carnally knowing female under 16 years of age was not entitled to a new trial upon newly discovered evidence consisting of discrepancies in testimony of prosecutrix and her mother at the trial of one defendant's younger brother for the same offense. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Partial invalidity of statute

Invalidity of portion of a statute which permitted the jury to impose the death penalty upon a person convicted of carnally knowing female under 16 years of age did not render remainder of statute invalid. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Invalidity of statutory provision which permitted the jury to impose death penalty upon person convicted of carnally knowing female under 16 years of age did not render invalid convictions of defendants who received trial by completely fair and impartial jury and were not intimidated by threat of death into either waiving trial by jury or pleading guilty. *Id.*

Treatment as a capital case

Defendants were not prejudiced because case was submitted to the jury as a capital case although a provision in the statute which authorized the jury to impose the death penalty for carnally knowing female under 16 years of age was constitutionally invalid, inasmuch as jury was offered no choice as to offenses for which defendant could be found guilty and prosecution made it clear it was not seeking the death penalty. *J. Bailey and R. Humphries v. United States* (1968, 405 F. 2d 1352, 132 U.S. App. D.C. 82).

Trial procedure

Defendant, who was convicted of statutory rape, but was not given a death sentence, was not prejudiced by the fact that the case was treated as a capital one, on ground that the verdict of guilty may have been a compromise, where prosecution never requested death penalty or even adverted to it, and trial judge gave it only a one-sentence mention in the charge to jury. *T. M. Springfield v. United States* (1968, 403 F. 2d 572, 131 U.S. App. D.C. 166).

Chapter 29.—ROBBERY

§ 22-2901. Robbery.

Whoever by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, shall take from the person or immediate actual possession of another anything of value, is guilty of robbery, and any person convicted thereof shall suffer imprisonment for not less than two years nor more than fifteen years. (Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 810; Dec. 27, 1967, Pub. L. 90-226, § 603, title VI, 81 Stat. 737.)

AMENDMENT

1967—Section 603, Act Dec. 27, 1967, Pub. L. 90-226, amended section by striking out "six months" and inserting "two years".

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date on enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made

by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967." or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-2902.

NOTES TO DECISIONS

Abuse of discretion

It was not an abuse of discretion to deny impeachment of complaining witness in prosecution for robbery by reference to complaining witness' prior convictions for assault and rape affecting substantial rights of defendants where impeachment of the witness with three convictions for crimes of auto theft, robbery, and burglary, each crime having element of dishonesty, was permitted. *G. A. Davis, et al. v. United States* (1969, 409 F. 2d 453, — U.S. App. D.C. —).

Consecutive sentences

It is proper to increase punishment where there have been convictions under the conventional robbery statute and under statute prohibiting assaults with a dangerous weapon by imposing consecutive sentences. *United States v. J. L. Suggs and C. Blair* (1967, 269 F. Supp. 732).

Defendant, who allegedly committed crime of assault with a dangerous weapon in parking lot of store or near door to store, and who allegedly committed a robbery in office of store could be given consecutive sentences upon being convicted for both crimes. *Id.*

Consecutive sentences for two separate offenses

The distinctions that assault and petit larceny are separate and distinct offenses requiring different elements of proof, and that one is a crime of general intent against the person, and the other a crime of specific intent against property, are no longer conclusive in determining the legality of consecutive sentences for two crimes committed in a single course of conduct. *G. Mahoney v. United States* (D.C. App. 1968, 243 A. 2d 684).

The compelling reasons which call for the application of the rule of lenity are absent in this case, and there is no substantial doubt Congress would have intended, in the discretion of the court, that consecutive punishment be imposed for historically separate offenses, against different societal interests, for which it has provided separate deterrents. *Id.*

Evidence

Prosecution may not affirmatively use at trial defendant's testimony in support of motion to suppress evidence. *W. E. Pendergast v. United States* (1969, 416 F. 2d 776, — U.S. App. D.C. —, cert. denied 89 S. Ct. 1782).

— Sufficiency

In this case in light of the evidence on issue of whether offense was product of mental illness, conviction for robbery of property belonging to United States, assault with a dangerous weapon and carrying dangerous weapon would be affirmed. *T. H. Adams v. United States* (1969, 413 F. 2d 411, — U.S. App. D.C. —).

The evidence portrayed in a view most favorable to the Government, of defendant's presence at scene of crime, his slight association with actual perpetrator, and subsequent flight, did not sustain conviction for robbery. *J. L. Bailey v. United States* (1969, 416 F. 2d 1110, — U.S. App. D.C. —).

In a robbery prosecution, government made out a case sufficient to go to the jury. *H. J. Macklin v. United States* (1969, 409 F. 2d 174, — U.S. App. D.C. —).

Evidence was sufficient to sustain robbery conviction of pickpockets. *R. T. Davis, Jr., et ano. v. United States* (1969, 409 F. 2d 458, — U.S. App. D.C. —).

Impeachment

Where defense raises issue of whether evidence of defendant's prior convictions should be excluded from trial for purposes of impeaching defendant's credibility when he testifies, even though burden of persuasion remains on defendant, there is a duty on judge to make sufficient inquiry to inform himself on relevant considera-

tions *L. B. Jones v. United States* (1968, 402 F. 2d 639, 131 U.S. App. D.C. 88)

On showing that defendant's testimony at his trial for robbery was essential because prosecution based whole case on delayed identification by complaining witness and therefore decision depended on credibility, trial judge's permitting evidence of defendant's prior conviction of assault to be introduced to impeach defendant's credibility was an abuse of discretion. *Id.*

Crime of assault is remotely, if at all, probative on issue of veracity of a defendant who testifies at his own trial. *Id.*

Instructions

The court properly instructed that the defendant's exclusive possession of property recently stolen from robbery victims was a basis for permissible inference that defendant was one of the robbers unless that possession was satisfactorily explained by the evidence even though prosecution had eyewitness testimony regarding the defendant's acquisition of the property which was in conflict with the explanatory testimony produced by defense. *W. E. Pendergast v. United States* (1969, 416 F. 2d 776, — U.S. App. D.C. —, cert. denied 89 S. Ct. 1782).

Intent to commit other crime

There is no statutory requirement for either robbery or assault with a dangerous weapon, that there be a specific intent to commit the other. *United States v. J. L. Suggs and C. Blair* (1967, 269 F. Supp. 732).

Model Instruction

Model instructions was proposed by the court for use in robbery and larceny cases. *W. E. Pendergast v. United States* (1969, 416 F. 2d 776, — U.S. App. D.C. —, cert. denied 89 S. Ct. 1782).

Photographic identification

There was a serious and irreconcilable breach of due process of law in view of circumstances surrounding photographic identification of defendants, including the fact that one robbery victim was shown only the photographs of the four suspects, that those photographs contained police markings, and that there was no necessity whatsoever for a photographic identification since the suspects had been apprehended, established that the identification procedure was "so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification". *United States v. S. Washington, Jr., et al.* (1968, 292 F. Supp. 284).

Evidence, including the fact that the defendants were not brought to trial until more than two years after the robbery, and that the robbery victims had never seen any of the individuals involved in the crime prior to the event, established that an in-court identification of the defendants by the robbery victims would not have been arrived at independent of improper photographic identifications secured by the police. *Id.*

Pretrial hearing

Where a victim tentatively identified the defendant from a photograph shown him about a month after the crime of robbery but police waited seven months thereafter before arresting the defendant though defendant was living at his mother's apartment and working, as police were aware, a few blocks from his home, the defendant was entitled to a full pretrial hearing in which the government would be given an opportunity to justify seven-month delay in defendant's arrest and in which the defendant would be given opportunity to show extent to which delay prejudiced him. *L. B. Jones v. United States* (1968, 402 F. 2d 639, 131 U.S. App. D.C. 88).

Probable cause

Victim's physical condition and his positive identification of defendant as participant in robbery were sufficient to give arresting officer probable cause to arrest defendant. *W. E. Pendergast v. United States* (1969, 416 F. 2d 776, — U.S. App. D.C. —, cert. denied 89 S. Ct. 1782).

Probable cause for arrest

In a case where police officers in plain clothes saw two defendants who were known to the officers to be pickpockets get onto bus, and the first defendant bumped into the victim, and second defendant brushed up against the victim, and officers arrested the second defendant, and

search disclosed keycase of the victim, there was probable cause for arrest of the second defendant, and district court properly denied motion of defendants to suppress the keycase in robbery prosecution. *R. T. Davis, Jr. et ano. v. United States* (1969, 409 F. 2d 458, — U.S. App. D.C. —).

Release on personal recognizance

Appellant, who was convicted of robbery and assault with a deadly weapon, and whose appeal presented a substantial claim that he was wrongfully identified, was ordered released on personal recognizance on certain enumerated conditions which were so structured as to allow for a maximum amount of supervision over appellant while still allowing for his freedom from incarceration. *W. Banks v. United States* (1969, 414 F. 2d 1150, — U.S. App. D.C. —).

Reversible error

Question regarding defendant's financial condition in prosecution for robbery, though error, did not require reversal where one defendant did not object at the trial and other defendant did not object that it resulted in prejudice until after line of questioning had been completed. *G. A. Davis, et al. v. United States* (1969, 409 F. 2d 453, — U.S. App. D.C. —).

Review

Issues as to whether trial court erred in permitting prosecutor to impeach defendant with cross-examination respecting prior conviction of assault and in permitting prosecutor to impeach defense witness with cross-examination respecting her chastity would not be noticed for the first time on appeal from conviction for assault with intent to commit robbery. *C. E. Green v. United States* (1968, 397 F. 2d 643, 130 U.S. App. D.C. 82).

Revocation of probation

Where trial court had imposed a suspended sentence conditioned upon satisfactory completion of three years on probation after conviction of robbery, such probation was revoked on request of United States Probation Officer and on appeal the Court of Appeals remanded the case for preparation of statement of evidence, reporter's notes of hearing being unavailable, and parties were unable to reconstruct such statement and a de novo hearing was held and sentencing judge reaffirmed the revocation of probation, the revocation was not an abuse of discretion. *T. Hurt v. United States* (1966, 374 F. 2d 283, 126 U.S. App. D.C. 69).

§ 22-2902. Attempt to commit robbery.

NOTES TO DECISIONS

Arrest without warrant

A police officer, who received a report from man that defendant appeared to have robbed a girl and started to walk toward defendant, who called a scout car for assistance when the defendant began running from officer, had probable cause for a warrantless arrest of defendant. *A. B. Clarke v. United States* (D.C. App. 1969, 256 A. 2d 782).

Evidence—Sufficiency

Evidence, including testimony of girl friend of one defendant as to incriminating statements which both defendants made to her, sustained convictions for felony murder and for attempted robbery. *A. Calloway and T. L. S. McCowey v. United States* (1968, 399 F. 2d 1006, 130 U.S. App. D.C. 273).

Chapter 31.—TRESPASS—INJURIES TO PROPERTY

§ 22-3102. Unlawful entry on property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4-140.

NOTES TO DECISIONS

Bona fide entry

Person who enters building for good purpose and with bona fide belief of his right to enter is not guilty of an unlawful entry in violation of District of Columbia statute. *T. J. McGloin v. United States* (D.C. App. 1967, 232 A. 2d 90).

Concurrent sentences

Where defendants received concurrent sentences in prosecution for possession of narcotics, possession of implements of crime, unlawful entry and narcotics vagrancy and evidence was sufficient to support conviction of possession of narcotics and possession of implements of crime, District of Columbia Court of Appeals would not pass upon sufficiency of evidence to support other convictions. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Custodial interrogation

Questions addressed to three defendants by arresting officers seeking an explanation for defendants' being in condemned house were noncoercive and not "custodial interrogation" within rule of *Miranda v. State of Arizona*. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Duty to arrest

When police detectives saw narcotics paraphernalia in possession of defendants, officers were under statutory duty to arrest the offenders immediately. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Elements of offense

Defendant who was found wandering by police officer inside of four-unit apartment building and on the roof and fire escape thereof could properly be convicted of unlawful entry under District of Columbia statute without showing that owner had not given an express warning that he should stay out of building. *T. J. McGloin v. United States* (D.C. App. 1967, 232 A. 2d 90).

Evidence—Admissibility

Where defendants' arrest for narcotics violations was legal, narcotics paraphernalia seized at time of the arrest was properly admitted in defendants' joint trial for narcotics violations. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

— Sufficiency

Evidence, including evidence as to exclusive control or possession of television in defendant, sustained conviction for unlawful entry and petit larceny. *J. L. Benboro v. United States* (D.C. App. 1967, 227 A. 2d 772).

Evidence supported conviction for unlawful entry. *L. Perry v. United States* (D.C. App. 1967, 230 A. 2d 721).

Evidence, which showed that appellant was found in parts of the airlines' offices which were not open to the public and where he had no right to be, sustained conviction for unlawful entry. *V. J. Bond, Jr. v. United States* (D.C. App. 1967, 233 A. 2d 506).

Ineffective assistance of counsel

Fact that new counsel was appointed not more than 60 minutes before trial did not amount to ineffective assistance of counsel of defendant charged with simple assault, unlawful entry and petit larceny where no continuance was requested and defendant announced he was ready for trial, factual situation was not so complex as to necessitate any extensive investigation and there were no witnesses for the defense who could have been called, new counsel was experienced and diligent and made no claim that he was hampered by appointment shortly before trial. *S. A. Tuttle v. United States* (D.C. App. 1968, 238 A. 2d 590).

Information—Sufficiency of

Defendants, who were arrested after refusing to move out of corridor in House wing of Capitol building when ordered to do so by Capitol police, were entitled to know with certainty offense with which they were charged and possible penalty threatened and were entitled to definite reference to the law which they had allegedly violated, and thus where, notwithstanding request of defense, no one had given citation of statute under which prosecution was being had, other than statement of prosecutor that two sections were involved, convictions under section carrying lighter sentence, as requested by prosecutor, were required to be set aside. *D. Smith et al. v. District of Columbia* (1967, 387 F. 2d 233, 128 U.S. App. D.C. 275).

Lawful arrest

Police officer who observed defendant in hallway of building and, upon questioning defendant, received no

logical explanation for his presence and who thereupon learned from building manager that the building was usually kept locked and the public was not invited to enter had sufficient ground to arrest defendant for unlawful entry committed in officer's presence, and after that valid arrest, the right to search defendant naturally followed. *W. C. Best v. United States* (D.C. App. 1968, 237 A. 2d 825).

Lesser included offense rule

Lesser included offense rule was properly applied when court instructed jury that the offense of larceny from interstate commerce, for which offense appellant was charged, included the lesser offense of taking property without right, an offense for which appellant was not charged, and since sentence for taking property without right ran concurrently with sentence for unlawful entry, court need not consider claim of error predicated on the instruction. *W. E. Humphrey v. United States* (D.C. App. 1967, 236 A. 2d 438).

Prosecution by indictment

Prosecution by indictment for unlawful entry was not constitutionally required where defendant was subject to imprisonment for more than one year when sentenced under the Federal Youth Corrections Act. *A. E. Harvin v. United States* (D.C. App. 1968, 245 A. 2d 307).

§ 22-3105. Placing explosives with intent to destroy or injure property.

Whoever places, or causes to be placed, in, upon, under, against, or near to any building, car, vessel, monument, statue, or structure, gunpowder or any explosive substance of any kind whatsoever, with intent to destroy, throw down, or injure the whole or any part thereof, although no damage is done, shall be punished by a fine not exceeding one thousand dollars and by imprisonment for not less than two years or more than ten years. (Mar. 3, 1901, ch. 854, § 825a, as added Mar. 3, 1905, 33 Stat. 1033, ch. 1461; Dec. 27, 1967, Pub. L. 90-226, § 607, title VI, 81 Stat. 739.)

AMENDMENT

1967—Section 607, Act Dec. 27, 1967, Pub. L. 90-226, amended section by striking out "or by imprisonment not exceeding ten years.", and inserting in lieu, "and by imprisonment for not less than two years or more than ten years."

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above, under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 22-3111. Disorderly conduct in public buildings or grounds—Injury to or destruction of United States property.

Any person guilty of disorderly and unlawful conduct in or about the public buildings and public

grounds belonging to the United States within the District of Columbia, or who shall wilfully injure the buildings or shrubs, or shall pull down, impair, or otherwise injure any fence, wall, or other inclosure, or shall injure any sink, culvert, pipe, hydrant, cistern, lamp, or bridge, or shall remove any stone, gravel, sand, or other property of the United States, or any other part of the public grounds or lots belonging to the United States in the District of Columbia, shall be fined not more than \$500, or imprisoned not more than six months, or both. (July 29, 1892, 27 Stat. 325, ch. 320, § 15; Oct. 20, 1967, Pub. L. 90-108, § 2, 81 Stat. 277.)

AMENDMENTS

1967—Section 2, Pub. L. 90-108, amended section by striking out "shall, upon conviction thereof, be fined not more than \$50." and inserted in lieu thereof "shall be fined not more than \$500, or imprisoned not more than six months or both."

PROSECUTION OF PRIOR VIOLATIONS NOT AFFECTED BY OCT. 20, 1967, AMENDMENT. APPLICABILITY OF PUB. L. 90-108 TO VIOLATIONS OCCURRING AFTER OCT. 20, 1967

Pub. L. 90-108, section 3 provided as follows:

"Prosecutions for violations of sections 9-118 to 9-126, 9-127 to 9-132 and of section 22-3111 occurring prior to the enactment of these amendments [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall not be affected by these amendments or abated by reason thereof. The provisions of this Act [Amendments to sections 9-118, 9-123, 9-125, 9-132 and 22-3111] shall be applicable to violations occurring after its enactment."

CODIFICATION

This section contains the last part of act July 29, 1892. The first part of § 15 of the act appears herein as § 4-120. Section is also classified to 40 U.S.C. § 101.

NOTES TO DECISIONS

Information—Sufficiency of

Information charging defendant arrested during peace demonstration with disorderly conduct in that she did with intent to provoke breach of peace congregate with others on public street and on grounds of United States Capitol, and did refuse to move, which failed to specify which of several potentially applicable statutes was basis of prosecution, was insufficient. *D. Feeley v. District of Columbia* (1967, 387 F. 2d 216, 128 U.S. App. D.C. 258).

Defendants, who were arrested after refusing to move out of corridor in House wing of Capitol building when ordered to do so by Capitol police, were entitled to know with certainty offense with which they were charged and possible penalty threatened and were entitled to definite reference to the law which they had allegedly violated, and thus where, notwithstanding request of defense, no one had given citation of statute under which prosecution was being had, other than statement of prosecutor that two sections were involved, convictions under section carrying lighter sentence, as requested by prosecutor, were required to be set aside. *D. Smith et al. v. District of Columbia* (1967, 387 F. 2d 233, 128 U.S. App. D.C. 275).

§ 22-3121. Obstructing public highway.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3122.

Chapter 32.—WEAPONS

CROSS REFERENCE

Federal firearms control laws, see 18 U.S.C. §§ 921 to 928. Unlawful possession or receipt or transportation in commerce of firearms, see title 18 U.S.C. App. 1201 et seq.

§ 22-3201. Possession, sale, transfer, and use of dangerous weapons—Definition.

* * * * *

"Crime of violence," as used in this chapter, means any of the following crimes, or an attempt to commit

any of the same, namely: Murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary. (July 8, 1932, 47 Stat. 650, ch. 465, § 1; Dec. 27, 1967, Pub. L. 90-226, § 501, title V, 81 Stat. 736.)

AMENDMENT

1967—Section 501, Act Dec. 27, 1967, Pub. L. 90-226 amended the definition "Crime of violence" by adding "robbery" thereto.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301, and enactments of sections 4-140a, 4-150a, and 22-1122, and amendments of 18 U.S.C. 4122, 5024, and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 24-203.

§ 22-3202. Committing crime when armed—Added punishment.

If any person shall commit a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm, or other dangerous or deadly weapon, including but not limited to, sawed-off shotgun, shotgun, machinegun, rifle, dirk, bowie knife, butcher knife, switchblade knife, razor, blackjack, billy, metallic or other false knuckles, he may in addition to the punishment provided for the crime be punished by imprisonment for an indeterminate number of years up to life as determined by the court. If a person is convicted more than once of having committed a crime of violence in the District of Columbia when armed with or having readily available any pistol or other firearm, or other dangerous or deadly weapon, including but not limited to, sawed-off shotgun, shotgun, machinegun, rifle, dirk, bowie knife, butcher knife, switchblade knife, razor, blackjack, billy, metallic or other false knuckles, then, notwithstanding any other provision of law, the court shall not suspend his sentence or give him a probationary sentence. (July 2, 1932, 47 Stat. 650, ch. 465, § 2; Dec. 27, 1967, Pub. L. 90-226, § 605, title VI, 81 Stat. 737.)

AMENDMENT

1967—Section 605, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions of section prior to this amendment, see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above, under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 24-203.

§ 22-3203. Unlawful possession of a pistol.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3207, 22-3208, 22-3210, 23-306, 24-203.

NOTES TO DECISIONS

Assistance of counsel

The record did not sustain the claim of ineffective assistance of counsel who was a defense attorney with many years of experience and who presented all substantial defenses, made appropriate motions and objections, attempted to suppress the evidence on the charge of unlawful possession of a pistol after conviction of a felony, and was able to obtain acquittal on a charge of threats to do bodily harm and directed verdict in defendant's favor on a charge of assault by threatening in a menacing manner. *I. Gressette v. United States* (D.C. App. 1969, 256 A. 2d 418).

Double jeopardy

In a case where a defendant waived his right to jury trial and the government entered nolle prosequi after witnesses had been sworn, but before the first witness began to testify, jeopardy did not attach and did not bar subsequent prosecution for carrying pistol without a license. *C. R. Newman v. United States* (1969, 410 F. 2d 259, — U.S. App. D.C. —).

Where defendant was charged by information with violation of statute which makes it unlawful for one to own or have in his possession a pistol if previously convicted of possession of a prohibited weapon, and before any witness took stand prosecuting attorney announced that Government could not go forward with charge and would nolle prosequi it and bring new charge of carrying a pistol without a license, plea of double jeopardy was not a valid plea in new prosecution because the two informations charged separate and distinct offenses. *C. R. Newman v. United States* (D.C. App. 1968, 239 A. 2d 152).

§ 22-3204. Carrying concealed weapons.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3205, 23-306.

NOTES TO DECISIONS

Acquiescence in plea of insanity

Where petitioner had not himself sought introduction of insanity defense at his trial and had not acquiesced in assertion of that defense, his commitment to hospital for the mentally ill following his acquittal by reason of insanity was not authorized and he was entitled to habeas corpus. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Appeal and error

Where record showed that defendant was found in possession of concealed weapon and his own testimony on trial confirmed such fact, absence of indication that defendant made informed decision, after appropriate advice, to proceed with joint counsel did not require reversal of conviction for carrying concealed weapon. *F. J. Ford v. United States of America* (1967, 379 F. 2d 123, 126 U.S. App. D.C. 346).

Burden of proving exception

Defendant had burden of bringing himself within statutory exception to offense charged rather than that of the prosecution to negative it. *M. L. Williams v. United States* (D.C. App. 1968, 237 A. 2d 539).

Consent to defense of insanity

Finding that petitioner himself sought introduction of insanity defense at his trial was clearly erroneous in view of evidence, including evidence that new counsel retained by petitioner's mother did not confer with petitioner prior to filing motion for pretrial mental examination and that petitioner did not even know new counsel's identity when he saw him at hearing on the motion and thought that he was still being represented by assigned counsel. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Finding that petitioner evidenced his acquiescence in insanity defense by waiting almost four years to attack validity of his mandatory commitment to hospital for the mentally ill was not warranted in light of petitioner's apparent disabilities, including his lack of financial means and learning in the law and the likelihood that he had been suffering from some mental illness. *Id.*

Constitutional rights

Failure to show that defendant was advised of constitutional rights at time of arrest did not entitle him to reversal of conviction for carrying deadly weapon, absent introduction of any statements made by him. *W. C. Best v. United States* (D.C. App. 1968, 237 F. 2d 825).

Constitutionality

Statute prohibiting carrying of concealed deadly or dangerous weapon is not unconstitutionally vague or indefinite in its prohibition of objects which are not ordinarily carried about person for personal convenience or for a legitimate purpose. *J. L. Scott v. United States* (D.C. App. 1968, 243 A. 2d 54).

Statute which makes it an offense to carry a pistol without a license was not so clearly unconstitutional as a violation of defendant's constitutional right to keep and bear arms that it should have been ruled upon by trial court despite defendant's failure to raise the point in trial court, and, in such circumstances, the Court of Appeals would decline to exercise its discretion to consider the constitutional question raised for first time on appeal. *M. L. Williams v. United States* (D.C. App. 1968, 237 F. 2d 539).

Continuance

The granting or refusal of a continuance is largely left to discretion of the trial judge, and his decision will not be disturbed without a clear showing of abuse in the exercise of that discretion. *W. E. Smith v. United States* (D.C. App. 1967, 235 A. 2d 574).

Dangerous purpose

Instrument may be dangerous in its ordinary use as contemplated by its design and construction, or where the purpose of carrying the object, under the circumstances, is its use as a weapon. *J. L. Scott v. United States* (D.C. App. 1968, 243 A. 2d 54).

Statute prohibiting carrying of concealed deadly or dangerous weapon does not prohibit carrying of knives for a legitimate purpose. *Id.*

Statute prohibiting carrying of concealed deadly or dangerous weapon outlaws carrying of otherwise useful object where the surrounding circumstances, such as the time and place the defendant was found in possession of such instrument, or the alteration of the object, indicate that the possessor would use the instrument for a dangerous purpose. *Id.*

Dangerous weapon

The test of whether the object being carried by an accused is a dangerous weapon is whether the purpose of

carrying the object, under circumstances, is its use as weapon. *A. B. Clarke v. United States* (D.C. App. 1969, 256 A. 2d 782).

In a case where the defendant was carrying the razor in company of an armed companion in a crowded, commercial area of the city in late afternoon, and defendant was apprehended after he ran up an alley at approach of a police officer investigating citizen's report concerning him, jury was apprised of circumstances sufficiently probative to allow them to conclude beyond a reasonable doubt that razor was being carried as deadly or dangerous weapon. *Id.*

Under certain circumstances a hawk-bill knife can be a "dangerous weapon" within statute. *W. C. Best v. United States* (D.C. App. 1968, 237 A. 2d 825).

Evidence supported finding that hawk-bill knife found in pocket of defendant who was unable to explain his presence in hallway of building which was usually kept locked and which public was not invited to enter constituted a "dangerous weapon" within statute. *Id.*

Deadly or dangerous weapon

A "deadly or dangerous weapon" is one which is likely to produce death or great bodily injury by the use made of it. *J. L. Scott v. United States* (D.C. App. 1968, 243 A. 2d 54).

Evidence that knife taken from defendant in movie theater was ten inches long when extended with blade slightly more than four and one-half inches from shank to tip supported finding that knife was a deadly weapon within meaning of statute prohibiting carrying of concealed deadly or dangerous weapon. *Id.*

Deadly weapon

Hawk-billed linoleum clasp knife with three and a half-inch blade altered to open 270 degrees was properly determined to be a "deadly weapon" and was unlawfully carried. *L. Perry v. United States* (D.C. App. 1967, 230 A. 2d 721).

Delay in charging defendant with felony

The United States Attorney has responsible role in implementing possibility that crimes of violence may be deterred by visiting severe punishment upon convicted felon later found carrying deadly weapon. *R. W. Epper-son v. United States* (1967, 371 F. 2d 956, 125 U.S. App. D.C. 303).

The courts will not skimp in affording prosecutor opportunity to obtain and appraise prior record of accused in order to determine whether to seek felony conviction for carrying dangerous weapon without license. *Id.*

Double jeopardy

Where defendant was charged by information with violation of statute which makes it unlawful for one to own or have in his possession a pistol if previously convicted of possession of a prohibited weapon, and before any witness took stand prosecuting attorney announced that Government could not go forward with charge and would nolle prosequere it and bring new charge of carrying a pistol without a license, plea of double jeopardy was not a valid plea in new prosecution because the two informations charged separate and distinct offenses. *C. R. Newman v. United States* (D.C. App. 1968, 239 A. 2d 152).

Evidence—Admissibility

Although there was ample testimony by two police officers of possession of a weapon by appellant without a license in violation of District of Columbia code, this did not render harmless identification and display in front of the jury, of three dangerous weapons which were taken from appellant's companions at time they were arrested but which were not charged to appellant's possession. *F. Macklin, Jr. v. United States* (1969, 410 F. 2d 1046, — U.S. App. D.C. —).

Absent plain error, defendant's failure to voice objection to introduction of knife against him in prosecution for carrying deadly weapon precluded assertion on appeal that admission of the knife was error. *W. C. Best v. United States* (D.C. App. 1968, 237 A. 2d 825).

Photographs of fingerprints discovered at scene of crime and identified as defendant's on basis of prints of defendant retained after prior conviction, did not render them inadmissible, on ground that his conviction for earlier

crime had been set aside pursuant to provisions of Youth Corrections Act. *M. C. Stevenson and E. S. Borum v. United States* (1967, 380 F. 2d 590, 127 U.S. App. D.C. 43).

— Sufficiency

Evidence was sufficient to sustain a conviction for carrying a pistol without a license, although the government did not offer any direct proof of defendant's knowledge of gun. *L. L. Powell v. United States* (D.C. App. 1968, 246 A. 2d 641).

Officer's independent testimony with respect to defendant's possession of gun to which no objection was made was sufficient to support defendant's conviction for carrying pistol without a license. *L. G. Lee v. United States* (D.C. App. 1968, 242 A. 2d 212).

Evidence supported conviction for carrying dangerous weapon without license. *R. W. Epperson v. United States* (1967, 371 F. 2d 956, 125 U.S. App. D.C. 303).

Evidence supported conviction for carrying a deadly weapon. *L. Perry v. United States* (D.C. App. 1967, 230 A. 2d 721).

Fingerprint tests, duty to make

There is no requirement that imposes on the Government the affirmative duty to make paraffin or fingerprint tests in regard to pistol involved in prosecution for carrying a pistol without a license, and there was no showing of prejudice from failure to make tests. *M. L. Williams v. United States*. (D.C. App. 1968, 237 A. 2d 539).

Guilty plea

The record did not show that the trial judge failed to determine that defendant's plea of guilty to carrying deadly weapon after previous conviction of like offense or of a felony had been made voluntarily, after proper advice, with understanding of nature of charge and consequences. *H. L. Barnett v. United States* (1968, 403 F. 2d 918, 131 U.S. App. D.C. 192).

Identification

Question of identification was one of fact for jury in prosecution for assault and for carrying a deadly weapon. *J. J. Durham v. United States* (D.C. App. 1968, 237 A. 2d 830).

Impeachment

It is difficult to attach any impeaching quality to evidence which identified and displayed in front of a jury, over objection and against judge's doubts, of three dangerous weapons, which had been taken from defendant's companions when they were arrested but were not charged to possession of defendant, who was indicted for carrying a dangerous weapon without a license in violation of District of Columbia code, and any probative value of the evidence was outweighed by its prejudicial effect. *F. Macklin, Jr. v. United States* (1969, 410 F. 2d 1046, — U.S. App. D.C. —).

Instructions

A charge to the jury outlining the various necessary elements of offense of carrying deadly or dangerous weapon, defining a "deadly or dangerous weapon" and advising that in determining whether the instrument was such a weapon "you may consider all the circumstances surrounding its possession and use" was adequate. *G. O. Leftwich v. United States* (D.C. App. 1969, 251 A. 2d 646).

In a prosecution for carrying deadly or dangerous weapon, where court's charge on weapon was adequate and there was no cause for confusion in the minds of the jury, it was within the trial court's discretion to give the "Allen" charge reminding jurors that they should give some thought to views of others and should consider their position in light of those views. *Id.*

Jury question

It was a jury question whether pistol had been lying on front seat of automobile next to defendant driver within convenient access and reach of defendant so that he might have been found to have had possession under statute, or whether pistol fell out of pocket of passenger and police intervened before defendant could have had access to it, in a prosecution for carrying pistol without a license. *H. E. Waterstaat v. United States* (D.C. App. 1969, 252 A. 2d 507).

Lawful arrest

Where police officers noted automobile bearing license tags registered to a different make automobile and requested driver, without making any similar request of passenger, to follow them to precinct house and to go inside, passenger who accompanied the driver and accidentally revealed a loaded revolver in his pocket while inside precinct house had not therefore been under arrest but gave police officer who observed the pistol sufficient grounds for arrest so that the arrest made by that officer was lawful and accompanying search was valid and evidence of pistol was accordingly not subject to suppression in prosecution for carrying a deadly weapon. *J. B. Conyers v. United States* (D.C. App. 1968, 237 A. 2d 838).

Moot question

Where a defendant, who was convicted of carrying a dangerous weapon without license in violation of District of Columbia code, had served his sentence, his appeal was not dismissable as moot, since statute under which he was indicted provided for consequence of conviction which did not disappear with expiration of his sentence. *F. Macklin, Jr. v. United States* (1969, 410 F. 2d 1046, — U.S. App. D.C. —).

Multiple convictions for the same offense

The fact that the passenger in a vehicle driven by defendant was convicted of carrying pistol without license, following police officer's discovery of pistol lying on seat of vehicle between passenger and driver, did not preclude conviction of driver for same offense. *H. E. Waterstaat v. United States* (D.C. App. 1969, 252 A. 2d 507).

Probable cause

Viewing by officers of the inside of the automobile in which defendant was sitting on parking lot of restaurant at 4:30 A.M. did not constitute a search and was merely a customary check of premises when they saw two other persons lying down in automobile and observed what appeared to be a .38 caliber cartridge on the floor they had probable cause to believe that there was a dangerous weapon in the automobile and were justified in arresting defendant, and revolver which was in plain sight when officers opened door to make arrest was admissible. *J. E. Lucas v. United States* (D.C. App. 1969, 256 A. 2d 574).

Probable cause to justify arrest for carrying dangerous weapon does not require exact knowledge of character of the weapon. *J. L. Scott v. United States* (D.C. App. 1968, 243 A. 2d 54).

Officer who before beginning conversation with defendant and defendant's companion in lobby of movie theater saw defendant's companion drop knife into cigarette ash container and who saw defendant attempting to slide knife up sleeve of his coat had probable cause for arrest and for subsequent seizure of defendant's knife. *Id.*

Police officers, to whom was communicated through regular channels a report from an unknown eyewitness concerning purported robbery and presence of nearby suspect who was identified in manner which fit defendant's description, had probable cause to arrest without a warrant defendant whom they found near scene of purported robbery, and gun taken in search of defendant's person was admissible in prosecution for carrying the pistol without a license, notwithstanding robbery report was later proved to be false. *C. W. Carter, Jr. v. United States* (D.C. App. 1968, 244 A. 2d 483).

Arrest without a warrant for carrying a dangerous or deadly weapon may be made on probable cause. *L. G. Lee v. United States* (D.C. App. 1968, 242 A. 2d 212).

Police officer is not privileged to ignore facts which would give him reasonable cause to believe that a person is carrying a dangerous or deadly weapon. *Id.*

Where officer at early hour in morning saw defendant and another man talking to manager of motel and when officer approached they hurriedly moved away from door and officer received inconsistent answers to his inquiries to the men and officer noted that defendant was carrying bag containing large heavy object and when officer asked if there was gun in the bag, defendant started backing off and did not answer, officer had probable cause to arrest defendant for carrying pistol and to seize the gun. *Id.*

Probable cause for arrest

Evidence established that police officers saw gun handle sticking out of defendant's pocket and had probable cause to believe that defendant was carrying dangerous weapon in violation of law. *United States v. P. Jenkins, Jr.* (1967, 276 F. Supp. 958).

Proof of intent

Proof of intent is not required to use a knife to menace or inflict bodily harm under statute proscribing carrying a deadly or dangerous weapon. *G. O. Leftwitch v. United States* (D.C. App. 1969, 251 A. 2d 646).

Proposed charge encompassing the defense theory that an intent to use knife to menace or inflict bodily harm was a necessary ingredient of offense of carrying deadly or dangerous weapon was incorrect and would have misled jury seriously and was properly refused. *Id.*

Under statute prohibiting carrying of concealed deadly or dangerous weapon, proof of intent to use knife for unlawful purpose is not element of the offense. *J. L. Scott v. United States* (D.C. App. 1968, 243 A. 2d 54).

Prosecutor's comments

In a prosecution for carrying a deadly or dangerous weapon, the prosecutor did not comment on defendant's failure to testify and there was no error requiring a reversal where the comment was that defendant "spoke very loud and clear as to this knife. And when was that? That was when he saw the officer. Because, what did he do? He took it from the small of his back and he threw it to the ground, trying to get rid of it". *G. O. Leftwitch v. United States* (D.C. App. 1969, 251 A. 2d 646).

Prosecutor's remarks to jury

In a case where jury was apprised of circumstances sufficiently probative to allow them to conclude beyond reasonable doubt that the razor was being carried as a deadly or dangerous weapon, under the circumstances defendant's conviction did not turn in any significant degree on remarks during closing argument by government counsel which attempted to place jury in shoes of victims or likely victims of crime, and in this case no reversal was required. *A. B. Clarke v. United States* (D.C. App. 1969, 256 A. 2d 782).

A demonstration of the way a razor might be used as a weapon made by officer during trial was relevant to issue of whether razor was dangerous or deadly weapon, and was not prejudicial to the defendant. *Id.*

Purpose of carrying weapon

In a case where police officer observed defendant walking along a street looking into parked automobiles and trying their door handles, and officer pulled abreast of defendant in patrol automobile, and defendant quickly withdrew behind nearby tree, and officer got out of automobile and approached defendant who reached behind his back and pulled large butcher knife from his belt, in area of small of his back, and threw it to ground in tree box space, test as to whether defendant was carrying deadly or dangerous weapon in violation of statute was whether the purpose of carrying butcher knife was its use as weapon. *G. O. Leftwitch v. United States* (D.C. App. 1969, 251 A. 2d 646).

Release pending appeal

Appellant's motion for release on his personal recognition pending his appeal from a conviction of carrying a dangerous weapon, after conviction of a felony, would be denied where paying deference to the action of District Court, considered with appellant's record, including the conviction and his failure to comply with prior probation and release requirements, the Court of Appeals was of the opinion that no one or more conditions of release would reasonably assure that the appellant would not pose a danger to any other person or to the community if released pending the appeal. *United States v. A. Blyther, Jr.* (1969, 407 F. 2d 1279, 132 U.S. App. D.C. 344).

Role of United States Attorney

Delay of almost three months between charging defendant with misdemeanor of carrying deadly weapon and charging him instead with felony of carrying dangerous weapon after having previously been convicted of felony was not objectionable although prosecutor knew the day after arrest that defendant could be held for felony because of previous conviction in District of Columbia of

carrying a deadly weapon, in view of time it took to obtain so-called "rap sheet" from F.B.I. showing defendant's felony record outside the District. *R. W. Epperson v. United States* (1967, 371 F. 2d 956, 125 U.S. App. D.C. 303).

Ruling of district court as binding on Court of General Sessions

United States district court decision in prosecution for narcotics violation, which suppressed certain evidence as products of illegal search and seizure was not binding on District of Columbia Court of General Sessions, where defendant was charged with possession of prohibited weapon and possession of numbers slips, and which had held previously to United States District Court ruling that certain evidence, which was seized under same circumstances as evidence in federal prosecution, was admissible. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Sentences

A sentence of not less than three or more than ten years was not unduly severe after defendant pleaded guilty to carrying deadly weapon after previous conviction of similar offense or of a felony, who had prior convictions of house breaking, grand larceny and receiving stolen property and who had failed to consistently report back to jail in interim between entry of his guilty plea and date of sentencing. *H. L. Barnett v. United States* (1968, 403 F. 2d 918, 131 U.S. App. D.C. 192).

Where general sentence imposed following convictions for robbery, assault with a dangerous weapon, and carrying concealed weapon was in excess of statutory maximum for carrying concealed weapon, and convictions for robbery and assault with dangerous weapon were required to be reversed because of absence of indication that defendant made informed decision, after appropriate advice, to proceed with joint counsel, case would be remanded for resentencing on count of carrying concealed weapon. *F. J. Ford v. United States of America* (1967, 379 F. 2d 123, 126 U.S. App. D.C. 346).

§ 22-3205. Exceptions to section 22-3204.**SECTIONS REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 22-3203.

NOTES TO DECISIONS**Burden of proving exception**

Defendant had burden of bringing himself within statutory exception to offense charged rather than that of the prosecution to negative it. *M. L. Williams v. United States* (D.C. App. 1968, 237 A. 2d 539).

§ 22-3206. Issue of licenses to carry pistol.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3203.

§§ 22-3207, 22-3208.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 22-3203.

§ 22-3209. Dealers of weapons to be licensed.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 22-3203, 22-3210.

§ 22-3210. Licenses of dealers of weapons—Records—By whom granted—Conditions thereof.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3209, 22-3214.

§§ 22-3211 to 22-3213.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 22-3203.

§ 22-3214. Possession of certain dangerous weapons prohibited—Exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-132, 22-3203, 22-3208, 22-3210, 23-306.

NOTES TO DECISIONS

Double jeopardy

Where defendant was charged by information with violation of statute which makes it unlawful for one to own or have in his possession a pistol if previously convicted of possession of a prohibited weapon, and before any witness took stand prosecuting attorney announced that Government could not go forward with charge and would nolle prosequere it and bring new charge of carrying a pistol without a license, plea of double jeopardy was not a valid plea in new prosecution because the two informations charged separate and distinct offenses. *C. R. Newman v. United States* (D.C. App. 1968, 239 A. 2d 152).

Evidence—Sufficiency

Evidence was sufficient to sustain a conviction for assault and possession of dangerous weapon with intent to use the same unlawfully. *C. Willis v. United States* (D.C. App. 1969, 250 A. 2d 569).

Evidence was sufficient to sustain a conviction for possession of prohibited weapon. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Ruling of district court as binding on Court of General Sessions

United States district court decision, in prosecution for narcotics violation, which suppressed certain evidence as products of illegal search and seizure was not binding on District of Columbia Court of General Sessions, where defendant was charged with possession of prohibited weapon and possession of numbers slips, and which had held previously to United States District Court ruling that certain evidence, which was seized under same circumstances as evidence in federal prosecution, was admissible. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

Search and seizure

A defendant, who was lawfully arrested for operating automobile without a valid permit, was taken to police station in his own automobile, and charged with driving without a valid permit, possession of prohibited weapon and possession of numbers slips, but did not protest or withhold his consent to use by police of his automobile to drive him to police station and was not coerced in any way, there was no seizure of defendant's automobile by police prior to arrival at police station. *B. R. Burrell v. United States* (D.C. App. 1969, 252 A. 2d 897).

§ 22-3215. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3204, 22-3214.

NOTES TO DECISIONS

Sentence

A sentence of not less than three nor more than ten years was not unduly severe after defendant pleaded guilty to carrying deadly weapon after previous conviction of similar offense or of a felony who had prior convictions of house breaking, grand larceny and receiving

stolen property and who had failed to consistently report back to jail in interim between entry of his guilty plea and date of sentencing. *H. L. Barnett v. United States* (1968, 403 F. 2d 918, 131 U.S. App. D.C. 192).

§ 22-3216. Separability of provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3203.

§ 22-3217. Dangerous articles—Definition—Taking and destruction—Procedure.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 33.—VAGRANCY

§ 22-3302. "Vagrants" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3303 to 22-3306, 33-416a.

NOTES TO DECISIONS

Constitutionality

Since the term loitering as used in this section failed to supply the necessary statutory criteria by which one could objectively distinguish lawful from unlawful conduct the statute was unconstitutional. *H. M. Ricks v. District of Columbia* (1968, 414 F. 2d 1097, — U.S. App. D.C. —).

Since under the Narcotics Vagrancy and General Vagrancy Statutes anyone using street for a lawful business in a lawful manner may do so without restriction, statutes are not an unreasonable restriction on freedom of movement in violation of due process clause of Fifth Amendment. *H. M. Ricks and J. N. Williams v. United States* (1967, 228 A. 2d 316; rev'd 414 F. 2d 1097, — U.S. App. D.C. —).

Convictions for violation of Narcotics Vagrancy and General Vagrancy Statutes were not invalid on ground that defendants were being punished solely for their status as vagrants. *Id.*

Convictions of defendants for violation of Narcotics Vagrancy and General Vagrancy Statutes on proof showing defendants' associations with known narcotics users and prostitutes did not violate Eighth Amendment's prohibition against cruel and unusual punishment despite claim that there was an absence of any overt criminal act. *Id.*

Construction

Vagrancy statute, because it defines a crime, must be construed narrowly in favor of defendant. *J. Johnson v. District of Columbia* (D.C. App. 1967, 230 A. 2d 483).

When an individual is unable to give a good account to police when wandering at late and unusual hours and is associated with criminals or narcotics addicts and is not lawfully employed, these factors, together with others enumerated in statutes, constitute probable cause for arrest for vagrancy. *H. M. Ricks and J. N. Williams v. United States* (1967, 228 A. 2d 316; rev'd 414 F. 2d 1097, — U.S. App. D.C. —).

Vagrancy statutes were not invalid on ground that they were "catch-alls" used when other crimes could not be proven or that they allegedly required a lesser quantum of proof to convict. *Id.*

Word "loitering" as used in Narcotics Vagrancy and General Vagrancy Statutes was not unconstitutionally vague, particularly where additional conditions were necessary to constitute offense. *Id.*

Reference to "failure to give a good account" as used in Narcotics Vagrancy and General Vagrancy Statutes restricts rather than enlarges application of statutes and

allows suspected vagrant to dissipate probable cause by satisfactorily explaining his conduct, and the arresting officer is not the only one who must evaluate account given by person questioned. *Id.*

Narcotics Vagrancy and General Vagrancy Statutes delineate with specificity what vagrancy is, and the definitions are neither numerous nor susceptible to widely divergent interpretations. *Id.*

Evidence—Circumstantial

Circumstantial evidence may sustain vagrancy conviction, but inferential proof of ultimate fact may not be based upon mere possibility, speculation or conjecture. *J. Johnson v. District of Columbia* (D.C. App. 1967, 230 A. 2d 483).

— Sufficiency

Evidence, including evidence that female defendant, while sober, well-behaved, and decently attired, was seen flagging down automobiles in early morning hours, was insufficient to sustain conviction for vagrancy. *J. Johnson v. District of Columbia* (D.C. App. 1967, 230 A. 2d 483).

Immorality and profligate

The phrase "leading an immoral and profligate life" as used in this section necessitated so much guesswork as to its coverage as to render statute invalid. *H. M. Ricks v. District of Columbia* (1968, 414 F. 2d 1097, — U.S. App. D.C. —).

The terms "immorality" and "profligateness" are not terms of art. *Id.*

Not giving a good account of himself

The phrase "not giving a good account of himself" as used in this section was much too loose to satisfy constitutional requirements. *H. M. Ricks v. District of Columbia* (1968, 414 F. 2d 1097, — U.S. App. D.C. —).

The phrase "a good account" as used in this section was so indefinite as to render statute unconstitutional. *Id.*

Proscription contained in this section against wandering without any visible or lawful business coupled with requirements that wanderer give "a good account" of himself granted unfettered discretion to administrative and judicial authorities and rendered statute invalid. *Id.*

Prior convictions

One can be found guilty of violating either Narcotics Vagrancy Statute or the General Vagrancy Statute without having been previously convicted. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1097, — U.S. App. D.C. —).

Both the Narcotics Vagrancy Statute and General Vagrancy Statute employ separate paragraphs which disjunctively set up criteria amounting to vagrancy and both require factors, other than prior convictions, which conjunctively amount to violation, so that prior convictions are not essential to all subsections of the statutes. *Id.*

Prior convictions of accused are admissible in prosecution for violation of vagrancy statutes. *Id.*

Narcotics Vagrancy and General Vagrancy Statutes do not improperly require presentation and proof of prior convictions, and do not deny due process and fair trial. *Id.*

Probable cause for arrest

Arrest for vagrancy without warrant was justified under evidence, including testimony of experienced police officers that they had observed defendant in company of known prostitutes and narcotics violators on four occasions during two nights. *J. L. Worthy v. United States* (1968, 409 F. 2d 1105, — U.S. App. D.C. —).

Purpose of statute

A course of conduct rather than an overt act is prohibited by the Narcotics Vagrancy and General Vagrancy Statutes. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1097, — U.S. App. D.C. —).

Purpose of Narcotics Vagrancy and General Vagrancy Statutes is to prevent crimes which may likely flow from the vagrant's mode of life. *Id.*

Search

Although it is incident to an arrest for vagrancy the search was not for that reason required to be limited to a frisk. *J. L. Worthy v. United States* (1968, 409 F. 2d 1105, — U.S. App. D.C. —).

Statistics as evidence

Statistical likelihood that a particular societal segment will engage in criminality is not permissible as an all-out substitute for proof of individual guilt. And not even past violation of the criminal law authorizes one's subjection to innately vague statutory specifications of crime. *H. M. Ricks v. District of Columbia* (1968, 414 F. 2d 1097, — U.S. App. D.C. —).

§ 22-3303. Prosecutions—Burden of proof to show lawful employment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3304 to 22-3306.

§ 22-3304. Penalty—Conditions imposed by court.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3305, 22-3306.

§ 22-3305. Prosecutions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3304, 22-3306.

§ 22-3306. Right to strike or picket not abrogated.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3203, 22-3304, 22-3305.

Chapter 34.—MISCELLANEOUS

§ 22-3404. Kosher meat—Sale—Labeling—Signs displayed where kosher and nonkosher meats are sold.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3405, 22-3406.

§ 22-3405. Kosher meat—"Meat"—"Person"—Definition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3406.

§ 22-3406. Kosher meat—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3405.

§ 22-3409. Mislabelling potatoes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3410 to 22-3412.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(207) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to establishing rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 22-3410. Mislabelling potatoes—Sign to show grade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3409, 22-3411, 22-3412.

§ 22-3411. Mislabelling potatoes—Law not applicable to seed potatoes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3409, 22-3412.

§ 22-3412. Mislabelling potatoes—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3409, 22-3411.

§ 22-3414. Use of flag for advertising purposes—Mutilation of flag.

Any person who, within the District of Columbia, in any manner, for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag, standard, colors or ensign of the United States of America; or shall expose or cause to be exposed to public view any such flag, standard, colors or ensign upon which shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed or annexed any word, figure, mark, picture, design or drawing, or any advertisement of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, colors or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$100 or by imprisonment for not more than thirty days, or both, in the discretion of the court. The words "flag, standard, colors, or ensign," as used herein, shall include any flag, standard, colors, ensign or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, colors or ensign of the United States of America or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America. (July 30, 1947, ch. 389, 61 Stat. 642; July 5, 1968, Pub. L. 90-381, § 3, 82 Stat. 291.)

CODIFICATION

This section is taken from section 3 of title 4 of the U.S. Code. Title 4 of the U.S. Code was enacted into law by section 1 of the Act of July 30, 1947, ch. 389, 61 Stat. 641, and section 3 thereof was amended by Pub. L. 90-381 in the respect described in the amendment note.

AMENDMENT

1968—Section 3, act July 5, 1968, Pub. L. 90-381 amended section by striking from the first sentence thereof the following: "; or who, within the District of Columbia, shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by word or act, upon any such flag, standard, colors, or ensign,".

CROSS REFERENCE

Desecration of the flag of the United States, penalties, see 18 U.S.C. § 700.

§ 22-3416. Sale of unwholesome food prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3419 to 22-3422.

§ 22-3417. "Food" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3419 to 22-3422.

§ 22-3418. Duty of director of public health.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3419 to 22-3422.

§ 22-3419. Commissioners to make rules and regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3420 to 22-3422.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(208) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 22-3420. Prosecutions for violations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3419, 22-3421, 22-3422.

§ 22-3421. Penalty for violation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3419, 22-3420, 22-3422.

§ 22-3422. Sections 22-3416 to 22-3422 supplemental to Federal Food, Drug, and Cosmetic Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3417, 22-3419 to 22-3421.

§ 22-3423. Use, by private detective or collection agencies, of the words "District of Columbia", "District," the initials "D.C." to create impression that agency represents the District, is prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3424, 22-3425.

§ 22-3424. Penalty for violation of section 22-3423.

Any person who violates section 22-3423 shall be punished by a fine of not more than \$300 or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Oct. 16, 1962, 76 Stat. 1071, Pub. L. 87-837, § 2.)

CODIFICATION

This section is set out in this supplement to correct a typographical error in the section as it appears in the 1967 edition of the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 22-3423.

Chapter 35.—SEXUAL PSYCHOPATHS

§ 22-3501. Indecent acts—Children.

NOTES TO DECISIONS

Burden of proof

The evidence adduced at habeas corpus proceeding did not support the trial court's finding that petitioner, who had originally been committed under the District of Columbia Sexual Psychopath Act, was likely to inflict injury, loss, pain or other evil on others by his sexual misconduct if he were released. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Habeas corpus petitioner who had been committed under the District of Columbia Sexual Psychopath Act had the burden to show that his past behavior, examined under the illumination provided by psychiatric evaluation of those actions, did not justify conclusion that he fell within statutory definition of one who was likely to inflict injury on others. *Id.*

Whether habeas corpus petitioner who was committed under the District of Columbia Sexual Psychopath Act should be released on habeas corpus would be determined on likelihood that he would, if released, be dangerous to others because of sexual misconduct. *Id.*

Petitioner who was confined in hospital pursuant to proceeding under District of Columbia Sexual Psychopath Act had the burden to show by a preponderance of the evidence that his continued confinement as sexual psychopath was not justified. *Id.*

Conditions justifying commitment

Predictions of dangerousness which would justify commitment under the District of Columbia Sexual Psychopath Act requires determination of type of conduct of which individual may engage; likelihood or probability that he will indulge in that conduct; and effect that such conduct if engaged in will have on others. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

In determining what acts may be considered in applying District of Columbia Sexual Psychopath Act, court must read "sexual" in common meaning of that term. *Id.*

Construction with other laws

The District of Columbia Sexual Psychopath Act was not repealed by the 1964 Hospitalization of Mentally Ill Act. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Court of Appeals would not read into the District of Columbia Sexual Psychopath Act the procedural protections of the Hospitalization of the Mentally Ill Act. *Id.*

Criminal sentencing

Where Chief of Legal Psychiatric Division expressed opinion raising doubt of competency for criminal sentencing for allegedly sexually violating the person of a child five years of age, so as to call for a hearing under the Sexual Psychopath Act, trial judge erred in proceeding to sentence for criminal offense, and Court of Appeals would remand for competency hearing. *G. Fuller v. United States* (1967, 390 F. 2d 468, 129 U.S. App. D.C. 53).

Disclosure of prior record

Where evidence of identification of defendant as perpetrator of offense involving sexual abuse of a little girl was inconclusive, and trial court had denied defendant's motion to permit defendant to testify without having his prior record exposed, and once defendant's prior record was disclosed to jury it was impossible, on facts of case, to say with assurance that jury would have found defendant guilty beyond reasonable doubt of crime for which he was on trial, new trial was required. *R. A. Barber v. United States* (1968, 392 F. 2d 517, 129 U.S. App. D.C. 193).

Due Process

Since a proceeding under District of Columbia Sexual Psychopath Act is closely related to behavior of person rather than to his mental condition considered apart from his behavior, constitutional guaranties implicit in due process of law must come into play. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Elements of offense

The elements of the offense of taking indecent liberties with a minor child are taking immoral, improper, or indecent liberties with a child under the age of 16 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the child or of the accused. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Evidence was sufficient to establish all elements of the offense of taking indecent liberties with a minor child. *Id.*

Evidence

Failure of the trial court in habeas corpus proceeding to distinguish between petitioner's sexual and nonsexual misconduct as a reason for his commitment under District of Columbia Sexual Psychopath Act and trial court's failure to evaluate the likelihood, as opposed to mere possibility, that petitioner would engage in sexual misconduct if released constituted reversible error. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Evidence in habeas corpus proceeding established that if released, the petitioner, who had been committed under District of Columbia Sexual Psychopath Act, would be unlikely to engage in sexual misconduct other than exhibitionism. *Id.*

Evidence at habeas corpus proceeding established that likelihood of serious injury to a child who might see the petitioner expose himself in public was too remote to justify commitment under District of Columbia Sexual Psychopath Act. *Id.*

Evidence at habeas corpus proceeding established that future sexual misconduct of petitioner, if any, was not sufficiently likely to cause kind of harm required by District of Columbia Sexual Psychopath Act to justify further commitment. *Id.*

Former jeopardy protection

A jury which was specifically prohibited from considering a charge of taking indecent liberties with minor child if defendant were to be found guilty of assault with intent to commit carnal knowledge, and defendant was found guilty of the latter charge, its verdict of not guilty of the former charge was a nullity and did not clothe defendant with former jeopardy protection or preclude reviewing court from directing entry of judgment of guilty on indecent liberties charge upon finding that evidence was insufficient to sustain conviction for assault with intent to commit carnal knowledge. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Instructions

Defendant was convicted of an assault on a female under age of 16 with intent to commit carnal knowledge and with taking immoral, improper and indecent liberties with a female under age of 16, in violation of Miller Act, and the court should have given requested instruction that jury should consider count based on Miller Act only if they acquitted on the other count and, although failure to so instruct did not impair verdict under Miller Act, conviction for other offense must be set aside. *H. C. Dozier v. United States* (1967, 382 F. 2d 482, 127 U.S. App. D.C. 206).

Failure of court to instruct on simple assault as less offense under count charging taking immoral, improper, and indecent liberties with female under age of 16 furnished no basis for reversal, as jury was instructed on simple assault as less offense under count charging assault on female under age of 16 with intent to commit carnal knowledge. *Id.*

Lesser included offense

The crime of taking indecent liberties is a lesser included offense of assault with intent to commit carnal knowledge. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

Limitation of applicability of chapter

The protection of the District of Columbia Hospitalization of the Mentally Ill Act is limited to those who are declared insane or of unsound mind pursuant to a court order and does not include any person previously committed under the Sexual Psychopathy Act. *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

Matters to be considered on remand

Where Court of Appeals remanded case for competency hearing under Sexual Psychopath Act because of psychiatric opinion, district court would be authorized to receive, or to direct prosecutor to file, statement looking toward application of Sexual Psychopath Act, and hearing on remand should also embrace issue of possibility of lack of competency at trial. *G. Fuller v. United States* (1967, 390 F. 2d 468, 129 U.S. App. D.C. 53).

Where Court of Appeals remanded to District Court case for competency hearing under Sexual Psychopath Act because of psychiatric opinion raising doubt of competency of defendant, inquiry at hearing on remand should embrace mental condition of defendant at time of alleged offense, what kind of judgment or sentence was appropriate, and what kind of disposition should be made of defendant, including a possible civil commitment under the Hospitalization of the Mentally Ill Act. (25-501 et seq.) *Id.*

"Not insane" construed

The words "not insane" as used in District of Columbia Sexual Psychopath Act means "not mentally ill". *M. I. Millard v. D. W. Harris, Acting Sup't, etc.* (1968, 406 F. 2d 964, 132 U.S. App. D.C. 146; rev'g 373 F. 2d 468).

When words "not insane" in District of Columbia Sexual Psychopath law is read to mean "not mentally ill" the sole justification for commitment under the act is the patient's dangerousness. *Id.*

Prosecutor's statement

Statement of the prosecutor, in his closing argument, that defendant's testimony was a recent fabrication designed to lure jury and hoodwink them, although not a permissible statement, did not warrant reversal of conviction for taking indecent liberties with eleven-year-old boy in view of eminently fair charge in which the district judge sought to compensate indirectly for such an impermissible comment. *C. W. Gibson v. United States* (1968, 403 F. 2d 569, 131 U.S. App. D.C. 163).

Reviewing court's authority

Where evidence does not sustain conviction of assault with intent to commit carnal knowledge but was sufficient to establish all elements of taking indecent liberties with minor child, reviewing court in remanding with directions to enter judgment of guilty of taking indecent liberties would accord permission to trial judge to grant new trial if he should deem it to be in the best interest of justice. *A. Allison v. United States* (1969, 409 F. 2d 445, — U.S. App. D.C. —).

§ 22-3503. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3505 to 22-3507, 22-3509 to 22-3511.

NOTES TO DECISIONS

Dangerous conduct

Statute defining sexual psychopath as a person who by repeated sexual misconduct evinces inability to control sexual impulses so as to be likely to be dangerous to others requires that the dangerous conduct be not merely repulsive or repugnant but must have serious effect on the viewer. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Habeas corpus

A habeas corpus petitioner, who was under hospital commitment as a sexual psychopath, was not entitled to be released on the ground that he was not mentally ill, as psychiatric testimony established that the petitioner was still a sexual psychopath who was likely to be of danger to others if permitted to return to society. *In re J. E. Clatterbuck v. D. W. Harris, Superintendent, etc.* (1968, 295 F. Supp. 84).

Release of sexual psychopath

Although an indefinite commitment pursuant to the Sexual Psychopath Law is justifiable only upon a theory of therapeutic treatment, and although the evidence in instant case clearly disclosed that petitioner was not being given therapeutic treatment adequate for his condition, petitioner was not to be released from his confinement as a sexual psychopath, in view of the fact that, while treatment was not being given, the fault lay entirely with petitioner who steadfastly refused appropriate and available treatment, namely, psychotherapy. *In re J. E. Clatterbuck v. D. W. Harris, Superintendent, etc.* (1968, 295 F. Supp. 84).

§ 22-3504. Filing of statement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505 to 22-3507, 22-3509 to 22-3511.

NOTES TO DECISIONS

Criminal sentencing

Where Chief of Legal Psychiatric Division expressed opinion raising doubt of competency for criminal sentencing for allegedly sexually violating the person of a child five years of age, so as to call for a hearing under the Sexual Psychopath Act, trial judge erred in proceeding to sentence for criminal offense, and Court of Appeals would remand for competency hearing. *G. Fuller v. United States* (1967, 390 F. 2d 468, 129 U.S. App. D.C. 53).

Matters to be considered on remand

Where Court of Appeals remanded case for competency hearing under Sexual Psychopath Act because of psychiatric opinion, district court would be authorized to receive, or to direct prosecutor to file, statement looking toward application of Sexual Psychopath Act, and hearing on remand should also embrace issue of possibility of lack of competency at trial. *G. Fuller v. United States* (1967, 390 F. 2d 468, 129 U.S. App. D.C. 53).

Where Court of Appeals remanded to District Court case for competency hearing under Sexual Psychopath Act because of psychiatric opinion raising doubt of competency of defendant, inquiry at hearing on remand should embrace mental condition of defendant at time of alleged offense, what kind of judgment or sentence was appropriate, and what kind of disposition should be made of defendant, including a possible civil commitment under the Hospitalization of the Mentally Ill Act. (21-501 et seq.) *Id.*

§ 22-3505. Right to counsel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3506, 22-3507, 22-3509 to 22-3511.

§ 22-3506. Examination by psychiatrists.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505, 22-3507 to 22-3511.

NOTES TO DECISIONS

Hearing

Though sexual psychopath statute requires psychiatric report to include a legal conclusion, it also requires a hearing in which psychiatrist can be examined and cross examined. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Justification for lack of treatment

One involuntarily committed to public hospital as sexual psychopath is entitled to relief upon showing that he was not receiving reasonably suitable and adequate treatment, and lack of such treatment cannot be justified by lack of staff or facilities. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Psychiatrists report as basis for commitment

Conclusory statement in psychiatrists' report was insufficient for commitment as sexual psychopath, in absence of full hearing, and court's statement that it acted upon "the testimony and evidence adduced" did not provide adequate assurance that statute had been complied with and that an informed judgment had been made. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

§ 22-3507. When hearing is required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505, 22-3506, 22-3509 to 22-3511.

§ 22-3508. Hearing—Commitment to Saint Elizabeths Hospital.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505 to 22-3507, 22-3509 to 22-3511.

NOTES TO DECISIONS

Basis for indefinite commitment

Indefinite commitment under sexual psychopath law is justifiable only upon a theory of therapeutic treatment. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Hearing

Though sexual psychopath statute requires psychiatric report to include a legal conclusion, it also requires a hearing in which psychiatrist can be examined and cross examined. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Psychiatrists report as basis for commitment

Conclusory statement in psychiatrists' report was insufficient for commitment as sexual psychopath, in absence of full hearing, and court's statement that it acted upon "the testimony and evidence adduced" did not provide adequate assurance that statute had been complied with and that an informed judgment had been made. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

Release of sexual psychopath

Although an indefinite commitment pursuant to the Sexual Psychopath Law is justifiable only upon a theory of therapeutic treatment, and although the evidence in instant case clearly disclosed that petitioner was not being given therapeutic treatment adequate for his condition, petitioner was not to be released from his confinement as a sexual psychopath, in view of the fact that, while treatment was not being given, the fault lay entirely with petitioner who steadfastly refused appropriate and available treatment, namely, psychotherapy. *In re J. E. Clatterbuck v. D. W. Harris, Superintendent, etc.* (1968, 295 F. Supp. 84).

§ 22-3509. Parole—Discharge.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505 to 22-3508, 22-3510, 22-3511.

NOTES TO DECISIONS

Habeas corpus

Habeas corpus relief would be available to one involuntarily committed to public hospital as sexual psychopath but who is not receiving reasonably suitable and adequate treatment, and lack of such treatment could not be justified by lack of staff or facilities. *M. I. Millard v. D. C. Cameron, Sup't etc.* (1966, 373 F. 2d 468, 125 U.S. App. D.C. 383; rev'd and remanded 406 F. 2d 964).

§ 22-3510. Stay of criminal proceedings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505 to 22-3507, 22-3509, 22-3511.

§ 22-3511. Criminal law unchanged.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-3503, 22-3505 to 22-3507, 22-3509, 22-3510.

Chapter 36.—IMPLEMENTS OF CRIME

§ 22-3601. Possession of implements of crime—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-306, 24-203.

NOTES TO DECISIONS

Burden of proof

It was not incumbent on the prosecution, in a case involving possession of implements of crime, wherein possession of a large quantity of narcotic paraphernalia was proved, to show that defendant possessor was unable to satisfactorily account for its possession since that was a matter for the defense. *W. J. Johnson v. United States* (D.C. App. 1969, 255 A. 2d 494).

Concurrent sentences

Where defendants received concurrent sentences in prosecution for possession of narcotics, possession of implements of crime, unlawful entry and narcotics vagrancy and evidence was sufficient to support conviction of possession of narcotics and possession of implements of crime, District of Columbia Court of Appeals would not pass upon sufficiency of evidence to support other convictions. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Custodial interrogation

Questions addressed to three defendants by arresting officers seeking an explanation for defendants' being in condemned house were noncoercive and not "custodial interrogation" within rule of *Miranda v. State of Arizona*. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Duty to arrest

When police detectives saw narcotics paraphernalia in possession of defendants, officers were under statutory duty to arrest the offenders immediately. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Evidence—Admissibility

Where defendants' arrest for narcotics violations was legal, narcotics paraphernalia seized at time of the arrest was properly admitted in defendants' joint trial for narcotics violations. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

— Suppression of

The denial of a motion to suppress evidence relating to stolen property and to narcotics paraphernalia found on defendants after the arrest for a pedestrian traffic violation was proper. *J. R. West et ano. v. United States* (D.C. App. 1969, 249 A. 2d 740).

Warning of constitutional rights

The case was remanded to determine whether defendant who was convicted of possession of implements of crime had been warned of his constitutional rights by arresting officers before he made incriminating statements. *W. J. Johnson v. United States* (D.C. App. 1969, 255 A. 2d 494).

Chapter 37.—WAREHOUSE RECEIPTS

§§ 22-3703, 22-3704.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections (formerly 21-2103, 21-2104) are referred to in section 28-2105.

TITLE 23.—CRIMINAL PROCEDURE

Chapter 1.—GENERAL PROVISIONS

Sec.

23-101a. Prosecutions for violations of sections 22-1107 and 22-1112 relating to disorderly conduct and lewd, indecent or obscene acts.

§ 23-101. Conduct of prosecutions—Party plaintiff.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-102.

NOTES TO DECISIONS

Corporation Counsel's authority to prosecute

Under statute restricting corporation counsel's authority to cases in which punishment is fine only or imprisonment not to exceed one year, corporation counsel lacked authority to initiate prosecution for disorderly conduct which was punishable by fine of not more than \$250 or imprisonment of not more than 90 days, or both. *District of Columbia v. Mark Grimes* (1968, 404 F. 2d 1337, 131 U.S. App. D.C. 360).

§ 23-101a. Prosecutions for violations of sections 22-1107 and 22-1112 relating to disorderly conduct and lewd, indecent or obscene acts.

Notwithstanding section 23-101, prosecutions for violations of section 22-1107, relating to disorderly conduct, and for violations of section 22-1112 relating to lewd, indecent, or obscene acts, shall be conducted in the name of the District of Columbia by the Corporation Counsel or his assistants. (July 30, 1968, Pub. L. 90-441, § 1, 82 Stat. 460.)

§ 23-102. Conduct of prosecutions—Certification to Court of Appeals.

NOTES TO DECISIONS

Advisory opinions on appeal

Where Court of General Sessions of the District of Columbia granted motion to dismiss disorderly conduct charge on several grounds but subsequently vacated dismissal with respect to jurisdictional ground only and question of prosecutorial authority was certified to Court of Appeals, any action Court of Appeals might take on certified question could not alter dismissal of charges and hence certificate was dismissed. *District of Columbia v. M. S. Barry et al.* (1967, 387 F. 2d 860, 128 U.S. App. D.C. 295).

Corporation Counsel's authority to prosecute

Under statute restricting corporation counsel's authority to cases in which punishment is fine only or imprisonment not to exceed one year, corporation counsel lacked authority to initiate prosecution for disorderly conduct which was punishable by fine of not more than \$250 or imprisonment of not more than 90 days, or both. *District of Columbia v. Mark Grimes* (1968, 404 F. 2d 1337, 131 U.S. App. D.C. 360).

§ 23-105. Appeals by United States and District of Columbia.

(a) In all criminal prosecutions the United States or the District of Columbia, as the case may be, shall have the same right of appeal that is given to the defendant, including the right to a bill of exceptions: *Provided*, That if on such appeal it shall be found that there was error in the rulings of the court during a trial, a verdict in favor of the defendant shall not be set aside.

(b) The United States may also appeal an order of the District of Columbia Court of General Sessions, granting a motion for return of seized property or a motion to suppress evidence, made before the trial of a person charged with a violation of any law of the United States, if the United States attorney conducting the prosecution for such violation certifies to the judge who granted such motion that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of the charge pending against the defendant. Pending the prosecution and determination of such appeal, the defendant, if in custody for such violation, shall be released in accordance with chapter 207 of title 18, United States, Code. (Mar. 3, 1901, 31 Stat. 1341, ch. 854, § 935; June 19, 1968, Pub. L. 90-351, § 1302, title VIII, 82 Stat. 238.)

CODIFICATION

Section 1302 of the act of June 19, 1968, is a part of Pub. L. 90-351, designated by section 1 thereof as the "Omnibus Crime Control and Safe Streets Act of 1968". Sections 1501 and 1502 thereof are classified to sections 22-2306 and 22-2307 of this code. For classification of other provisions of Pub. L. 90-351 see distribution table in the U.S. Code.

AMENDMENT

1968—Section 1302, act June 19, 1968, Pub. L. 90-351, inserted (a) at beginning of existing section and added subsection (b) thereto.

Chapter 3.—SEARCH WARRANTS AND ARREST

§ 23-301. Issuance upon complaint under oath—Contents—Warrant—Affidavit—Form.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-305.

NOTES TO DECISIONS

Sufficiency of warrant

It was not in the interests of justice that Court of Appeals entertain for the first time on appeal objection that warrant authorizing search for and seizure of described clothing worn by defendant at the time of alleged crime did not comply with requirements of a federal rule specifying property for which a search warrant may be issued. *W. H. Fuller v. United States* (1968, 407 F. 2d 1199, 132 U.S. App. D.C. 264; cert. denied 89 S. Ct. 999).

§ 23-304. Return or destruction of property seized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-305.

§ 23-306. Arrests without warrant for unlawful possession of implements of crime—Burglar tools—Weapons—Lottery tickets—Stolen property.

NOTES TO DECISIONS

Cause for arrest

Where a police officer had a conversation with the victim of an assault and petit larceny and proceeded in patrol car in search of the assailants, and the stolen articles were in plain view of officer in defendant's hand and at his feet in the gutter, an arrest was authorized when the officer saw the stolen articles. *R. L. Thompkins v. United States* (D.C. App. 1969, 251 A. 2d 636).

Where in making an initial stop of the defendant, the officer was engaged in routine on-the-street investigation

in nearby area of a crime minutes after it occurred in an early hour of the morning in his effort to find perpetrator while the trail was still warm, and under these circumstances the initial stop of defendant was neither an arrest nor an arbitrary detention, but arrest occurred after officer saw the articles which fit description of stolen property, which gave sufficient cause to arrest, and seizure was not invalid. *Id.*

Evidence—Sufficiency

Officer's independent testimony with respect to defendant's possession of gun to which no objection was made was sufficient to support defendant's conviction for carrying pistol without a license. *L. G. Lee v. United States* (D.C. App. 1968, 242 A. 2d 212).

Probable cause

Viewing by officers of the inside of the automobile in which defendant was sitting on parking lot of restaurant at 4:30 a.m. did not constitute a search and was merely a customary check of premises and when they saw two other persons lying down in automobile and observed what appeared to be a .38 caliber cartridge on the floor they had probable cause to believe that there was a dangerous weapon in the automobile and were justified in arresting defendant, and revolver which was in plain sight when officers opened door to make arrest was admissible. *J. E. Lucas v. United States* (D.C. App. 1969, 256 A. 2d 574).

Standard to be applied in determining probable cause for arrest is that of a reasonable, cautious and prudent police officer and must be judged in the light of his experience and training, and bases for finding of probable cause must be those factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. *B. Wright, Jr. v. United States* (D.C. App. 1968, 242 A. 2d 833).

Arrest without a warrant for carrying a dangerous or deadly weapon may be made on probable cause. *L. G. Lee v. United States* (D.C. App. 1968, 242 A. 2d 212).

Police officer is not privileged to ignore facts which would give him reasonable cause to believe that a person is carrying a dangerous or deadly weapon. *Id.*

Where officer at early hour in morning saw defendant and another man talking to manager of motel and when officer approached they hurriedly moved away from door and officer received inconsistent answers to his inquiries to the men and officer noted that defendant was carrying bag containing large heavy object and when officer asked if there was gun in the bag, defendant started backing off and did not answer, officer had probable cause to arrest defendant for carrying pistol and to seize the gun. *Id.*

Evidence established that police officers saw gun handle sticking out of defendant's pocket and had probable cause to believe that defendant was carrying dangerous weapon in violation of law. *United States v. P. Jenkins, Jr.* (1967, 276 F. Supp. 958).

Police officers may arrest without warrant when there is probable cause to believe that felony has been committed and that arrested person committed it, or when misdemeanor has been committed in their presence or view, and may also arrest for certain misdemeanors, including petit larceny, using probable cause standard. *E. C. Singleton v. United States* (D.C. App. 1967, 225 A. 2d 315).

Sales clerk may report shoplifting incident to special policeman who can then arrest suspect on probable cause. *Id.*

Probable cause for arrest

A police officer in the District of Columbia has the power to make a warrantless arrest of a citizen when he has a probable cause to believe that the citizen has committed felony or certain misdemeanors designated by statute, and the classic test for probable cause is whether the officer had knowledge of facts and circumstances which would warrant a prudent man in believing that an offense had been committed. *A. B. Clarke v. United States* (D.C. App. 1969, 256 A. 2d 782).

Search and seizure

In District of Columbia principle that police may make arrest and incidental search in public place without warrant upon probable cause is applicable to suspected violations of statute prohibiting carrying concealed weapons. *United States v. A. Huff et ano.* (1967, 279 F. Supp. 143).

Where defendants were lawfully stopped originally pursuant to police officer's power to check for traffic violations and when officer asked driver to check glove compartment for registration card, officer thought he saw a revolver in the compartment, sufficient information existed to warrant officer in believing that an offense had been committed and there was probable cause for search without warrant, and that did not evaporate when no gun was found in glove compartment. *Id.*

Once cause existed to search automobile for prohibited weapon, likely places within automobile could be inspected. *Id.*

Special policeman as "police officer"

Special policeman, while on duty and in his prescribed area of authority, is a "police officer" within arrest statute, and may arrest when he has probable cause to believe that arrested person has perpetrated crime of petit larceny on merchandise of his employer. *E. C. Singleton v. United States* (D.C. App. 1967, 225 A. 2d 315).

Special policeman, who observed defendant's suspicious actions within department store and followed him to another store where defendant produced merchandise from underneath his coat, was authorized to make arrest on basis of probable cause for belief that defendant had committed petit larceny in department store. *Id.*

Validity of arrest

A defendants' arrest on a charge of petit larceny was lawful depending upon whether arresting officer had probable cause to believe that they had in their possession "fruits of the crime." *S. Smith and W. Jeffries v. United States* (D.C. App. 1968, 247 A. 2d 293).

Chapter 4.—FUGITIVES FROM JUSTICE

§ 23-401. Extradition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-411.

NOTES TO DECISIONS

Affidavit—Sufficiency of

Affidavit for interstate rendition of an accused which is framed in the conclusory statutory language and which lacks any identification of sources does not show probable cause under the Fourth Amendment to the United States Constitution. *O. L. Kirkland and E. Smith v. P. H. Preston and L. Moore* (1967, 385 F. 2d 670, 128 U.S. App. D.C. 148).

Where affidavit submitted by Florida authorities in support of extradition alleged in conclusory statutory language that accuseds were guilty of second-degree arson, affidavit was insufficient to show probable cause for extradition and accuseds were entitled to writ of habeas corpus releasing them from custody of asylum jurisdiction. *Id.*

Criminal arrest

Apprehension of a fugitive for purpose of extradition is a "criminal arrest" since it deprives fugitive of his liberty for purposes of insuring his presence at criminal trial. *O. L. Kirkland and E. Smith v. P. H. Preston and L. Moore* (1967, 385 F. 2d 670, 128 U.S. App. D.C. 148).

Fourth Amendment Standards

Affidavit submitted by demanding state to chief executive of asylum state for extradition of fugitive must present facts sufficient to establish a showing of probable cause under Fourth Amendment standards. *O. L. Kirkland and E. Smith v. P. H. Preston and L. Moore* (1967, 385 F. 2d 670, 128 U.S. App. D.C. 148).

The Fourth Amendment, which governs arrests, governs extradition arrests. *Id.*

To be valid under the Fourth Amendment, an arrest must be preceded by a finding of probable cause. *Id.*

Indictment

When an extradition demand is accompanied by an indictment, that document embodies a grand jury's judgment that constitutional probable cause exists. *O. L. Kirkland and E. Smith v. P. H. Preston and L. Moore* (1967, 385 F. 2d 670, 128 U.S. App. D.C. 148).

Original jurisdiction

The Chief Judge of District Court in District of Columbia exercises an executive function by presiding at extradition hearings and General Sessions Court exercises a

judicial function by issuing detention warrant and setting bail, thus there is no court having original jurisdiction over offense within appeal provisions of Bail Reform Act, and appeal from an order of detention is, therefore, properly directed to District of Columbia Court of Appeals. *J. T. Hoffman v. United States* (1968, 403 F. 2d 927, 131 U.S. App. D.C. 201).

§ 23-403. Detention of fugitives from justice—Warrants for apprehension.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-409, 23-410.

NOTES TO DECISIONS

Original jurisdiction

The Chief Judge of District Court in District of Columbia exercises an executive function by presiding at extradition hearings and General Sessions Court exercises a judicial function by issuing detention warrant and setting bail, thus there is no court having original jurisdiction over offense within appeal provisions of Bail Reform Act, and appeal from an order of detention is, therefore, properly directed to District of Columbia Court of Appeals. *J. T. Hoffman v. United States* (1968, 403 F. 2d 927, 131 U.S. App. D.C. 201).

§ 23-404. Bail—When allowed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-405, 23-408 to 23-410.

NOTES TO DECISIONS

Original jurisdiction

The Chief Judge of District Court in District of Columbia exercises an executive function by presiding at extradition hearings and General Sessions Court exercises a judicial function by issuing detention warrant and setting bail, thus there is no court having original jurisdiction over offense within appeal provisions of Bail Reform Act, and appeal from an order of detention is, therefore, properly directed to District of Columbia Court of Appeals. *J. T. Hoffman v. United States* (1968, 403 F. 2d 927, 131 U.S. App. D.C. 201).

§§ 23-405 to 23-408.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 23-409, 23-410.

§ 23-409. Voluntary return—Bond for appearance in demanding state.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-410.

§ 23-410. Removal proceedings and returns to foreign countries not repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-409.

Chapter 5.—UNIFORM ACT ON FRESH PURSUIT

§ 23-501. Arrests in District of Columbia by officers of other States.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 23-502, 23-503.

NOTES TO DECISIONS

Compliance with laws of neighboring jurisdiction

Defendants who were observed by Maryland officers parking in an alley and attempting to gain admission to motel located near boundary between Maryland and District of Columbia, Maryland officer's failure to comply with District of Columbia Fresh Pursuit Statute did not vitiate defendants' arrests which took place just beyond dividing line. *C. L. Boddie et al. v. State of Maryland* (Md. App. 1969, 252 A. 2d 290).

Maryland officers who are making arrest in District of Columbia may not with impunity ignore District of Columbia's Fresh Pursuit Statute. *Id.*

Probable cause for arrest

An arresting officer observing defendants park automobile in an alley alongside a motel and attempt to enter motel at 4:36 a.m. and who knew of prior motel holdups including one that night had probable cause to believe that defendants had committed felony. *C. L. Boddie et al. v. State of Maryland* (Md. App. 1969, 252 A. 2d 290).

Probable cause for an arrest exists when facts and circumstances within the knowledge of arresting officer, or of which he has reasonably trustworthy information, are sufficient to warrant reasonably cautious person to believe that felony has been committed by person arrested. *Id.*

Only a probability, and not prima facie showing, of criminal activity is the standard of probable cause for arrest. *Id.*

The rule of probable cause for an arrest is nontechnical conception of reasonable ground for belief of guilt, requiring less evidence for such belief than would justify conviction, but more evidence than that which would arouse mere suspicion. *Id.*

The fact that officer, who had probable cause to arrest defendants on a charge of assault with intent to murder, did not arrest defendants on that offense, or that defendants were subsequently acquitted of such offense, did not mean that arresting officer did not have probable cause to arrest. *Id.*

Legality of arrest is measured by existence of probable cause at time of arrest. *Id.*

§ 23-504. "Fresh pursuit" defined.

NOTES TO DECISIONS

Compliance with laws of neighboring jurisdiction

Defendants who were observed by Maryland officers parking in an alley and attempting to gain admission to motel located near boundary between Maryland and District of Columbia, Maryland officer's failure to comply with District of Columbia Fresh Pursuit Statute did not vitiate defendants' arrests which took place just beyond dividing line. *C. L. Boddie et al. v. State of Maryland* (Md. App. 1969, 252 A. 2d 290).

Maryland officers who are making arrest in District of Columbia may not with impunity ignore District of Columbia's Fresh Pursuit Statute. *Id.*

Chapter 6.—PROFESSIONAL BONDSMEN

Sec.

23-610. Designation of official to take bail or collateral when court is not in session—Issuance of citation by police, in lieu of custody, when arrest is without a warrant for a misdemeanor—Exception—Penalty for failure to answer citation—Prosecution.

§ 23-610. Designation of official to take bail or collateral when court is not in session—Issuance of citation by police, in lieu of custody, when arrest is without a warrant for a misdemeanor—Exception—Penalty for failure to answer citation—Prosecution.

(a) * * *

(b) An officer or member of the Metropolitan Police force who, in accordance with section 4-140, relating to the District of Columbia, arrests without a warrant a person for committing a misdemeanor may, instead of taking him into custody, issue a citation requiring such person to appear before an official of the Metropolitan Police force designated under subsection (a) of this section to act as a clerk of the District of Columbia Court of General Sessions.

(c) Whenever a person is arrested without a warrant for committing a misdemeanor and is booked and processed pursuant to law, an official of the Metropolitan Police force designated under subsection (a) of this section to act as a clerk of the District of Columbia Court of General Sessions may issue

a citation to him for an appearance in court or at some other designated place, and release him from custody.

(d) No citation may be issued under subsection (b) or (c) of this section unless the person authorized to issue the citation has reason to believe that the arrested person will not cause injury to persons or damage to property and that he will make an appearance in answer to the citation.

(e) Whoever willfully fails to appear as required in a citation, shall be fined not more than the maximum provided for the misdemeanor for which such citation was issued or imprisoned for not more than one year, or both. Prosecution under this subsection shall be by the prosecuting officer responsible for prosecuting the offense for which the citation is issued. (As amended Dec. 27, 1967, Pub. L. 90-226, § 701, title VII, 81 Stat. 740.)

AMENDMENT

1967—Section 701, Act Dec. 27, 1967, Pub. L. 90-226, amended section by designating existing section as (a) and adding subsections (b) to (e) thereto.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

Chapter 7.—DEATH PENALTY

§ 23-701. Capital punishment—How inflicted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-703.

§ 23-702. Commissioners to provide death chamber, appoint executioner and assistants, and fix fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(209) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to fixing fees of an executioner and his assistants, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406

of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-703.

§ 23-704. Who may be present at executions—Fact of execution to be certified to clerk of court.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-703.

Chapter 9.—BAIL—DISTRICT OF COLUMBIA BAIL AGENCY

§ 23-901. District of Columbia Bail Agency.

There is hereby created for the District of Columbia the District of Columbia Bail Agency (hereinafter referred to as the "agency") which shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police force issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made. (July 26, 1966, 80 Stat. 327, Pub. L. 89-519, § 2; Dec. 27, 1967, Pub. L. 90-226, § 702(a), title VII, 81 Stat. 740.)

AMENDMENT

1967—Section 702, Act Dec. 27, 1967, Pub. L. 90-226, amended section to read as above set out. For provisions of section prior to this amendment see main edition of the code.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided:

Whoever, prior to the date of enactment of this Act [Pub. L. 90-226], commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided:

If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 23-902. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 23-903.

§ 23-903. Interviews with detainees—Investigations and reports—Information as confidential—Consideration and use of reports in making bail determinations.

* * * * *

(d) The agency, when requested by a member or officer of the Metropolitan Police force acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

(e) The preparation by the agency and the submission of its report as provided in this section shall be accomplished at the earliest practicable opportunity.

(f) A judicial officer in making a bail determination shall consider the agency's report and its accompanying recommendation, if any. The judicial officer may impose such terms and set such conditions including requiring the execution of a bail bond with sufficient solvent sureties, upon release as shall appear warranted by the facts presented, except that such judicial officer may not establish any term or condition for release not otherwise authorized by law (including the Bail Reform Act of 1966 (Pub. L. 89-465)). (July 26, 1966, 80 Stat. 327, Pub. L. 89-519, § 4; Dec. 27, 1967, Pub. L. 90-226, § 702(b), title VII, 81 Stat. 740.)

REFERENCES IN TEXT

For the Bail Reform Act of 1966 (Pub. L. 89-465), referred to in subsec. (f) of this section, see 18 U.S.C. § 3146 et seq.

AMENDMENTS

1967—Section 702(b), Act Dec. 27, 1967, Pub. L. 90-226, amended section by redesignating existing subsections (d) and (e) as subsections (e) and (f) respectively; inserting a new subsection (d) as above set out and amending subsection (f) (as redesignated) by inserting after "such conditions" the words "including requiring the execution of a bail bond with sufficient solvent sureties."

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date of enactment of this Act, [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections, 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025], shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance

is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

§ 23-907. Annual reports to executive committee, Congress and Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 23-908. Authorization for appropriations—Budget estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 23-909. Applicability of Bail Reform Act.

NOTES TO DECISIONS

Original jurisdiction

The Chief Judge of District Court in District of Columbia exercises an executive function by presiding at extradition hearings and General Sessions Court exercises a judicial function by issuing detention warrant and setting bail, thus there is no court having original jurisdiction over offense within appeal provisions of Bail Reform Act, an appeal from an order of detention is, therefore, properly directed to District of Columbia Court of Appeals. *J. T. Hoffman v. United States* (1968, 403 F. 2d 927, 131 U.S. App. D.C. 201).

TITLE 24.—PRISONERS AND THEIR TREATMENT

Chapter 1.—PROBATION

§ 24-106. Services of a psychiatrist and a psychologist available to probation officers, the Board of Parole and other designated officers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-302.

Chapter 2.—INDETERMINATE SENTENCES AND PAROLES

§ 24-201. Repealed. July 17, 1947, 61 Stat. 379, ch. 263, § 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-201b, 24-203, 24-207.

§ 24-201a. Board of Parole—Rules and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-202. Repealed. July 17, 1947, 61 Stat. 379, ch. 263, § 7.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-203, 24-207.

§ 24-203. Imposition of indeterminate sentences authorized—Life and death sentences.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-201c, 24-207.

NOTES TO DECISIONS

Bail in felony-murder case

In view of the outstanding detention record of defendant, who had been convicted four times in an eight-year period for felony-murder in connection with an attempted robbery and whose first three convictions had been reversed, coupled with defendant's strong area ties, his family's help, assured employment, his apparent determination to live a useful and productive life, would be admitted to bail pending appeal from fourth conviction. *United States v. E. M. Harrison* (1968, 405 F. 2d 355, 131 U.S. App. D.C. 390).

§ 24-204. Parole authorized—Conditions—Custody.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(210) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) relating to rules and regulations permitting the discharge of parolees, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-207.

NOTES TO DECISIONS

Dispositional alternatives

The parole board has a wide choice of dispositional alternatives: (1) it may excuse the violation altogether and withdraw its warrant; (2) it may immediately revoke parole; and (3) it may withhold revocation until parolee has completed service of his intervening sentence and then revoke parole. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

The parole board is vested with broad discretion in the dispositional process. *Id.*

Prompt disposition of consequences of parole violation

Where fact of parole violation has been conclusively established by an adjudication, either state or federal, that a criminal offense was committed during release period, parole violator may apply to parole board for immediate determination of disposition to be made concerning consequences of his parole violation and to seek what is in effect concurrent service on all, or a part of, the unexpired portion of his original sentence with the sentence imposed for criminal offense which constituted the parole violation. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

Review

The parole board's selection of a particular disposition, after full and fair consideration of available facts, may be regarded as almost unreviewable, but failure to afford a procedure whereby violator may seek a favorable disposition, or an outright refusal to consider proffered evidence in mitigation, is not immune from judicial review. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

Where parole boards recently issued new regulations, in lieu of informal procedures, concerning the processing and disposition of applications for withdrawal or execution of parole violator warrants prior to expiration of the intervening sentence, appeals not otherwise disposed of would be remanded so that petitioners might pursue the administrative remedies provided in those regulations. *Id.*

Judicial reviews of dispositional phase of parole revocation proceedings is available, if at all, only after the violator has pursued his administrative remedies. *Id.*

§ 24-205. Violation of parole—Warrant—Arrest—Return to confinement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-207.

§ 24-206. Revocation of parole after retaking—Hearing—New parole.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-207.

NOTES TO DECISIONS

Dispositional alternatives

The parole board has a wide choice of dispositional alternatives: (1) it may excuse the violation altogether and withdraw its warrant; (2) it may immediately revoke parole; and (3) it may withhold revocation until parolee has completed service of his intervening sentence and then revoke parole. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

The parole board is vested with broad discretion in the dispositional process. *Id.*

Prompt disposition of consequence of parole violation

Where fact of parole violation has been conclusively established by an adjudication, either state or federal, that a criminal offense was committed during release period, parole violator may apply to parole board for immediate determination of disposition to be made concerning consequences of his parole violation and to seek what is in effect concurrent service on all, or a part of, the unexpired portion of his original sentence with the sentence imposed for criminal offense which constituted the parole violation. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

Review

The parole board's selection of a particular disposition, after full and fair consideration of available facts, may be regarded as almost unreviewable, but failure to afford a procedure whereby violator may seek a favorable disposition, or an outright refusal to consider proffered evidence in mitigation, is not immune from judicial overview. *A. Shelton et al., v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

Where parole boards recently issued new regulations, in lieu of informal procedures, concerning the processing and disposition of applications for withdrawal or execution of parole violator warrants prior to expiration of the intervening sentence, appeals not otherwise disposed of would be remanded so that petitioners might pursue the administrative remedies provided in those regulations. *Id.*

Judicial review of dispositional phase of parole revocation proceedings is available, if at all, only after the violator has pursued his administrative remedies. *Id.*

Time limitation on issuance of violator warrant

The parole board's jurisdiction to issue a violator warrant with respect to a mandatory release terminates 180 days before expiration of the maximum sentence. *A. Shelton et al. v. United States Board of Parole et al.* (1967, 388 F. 2d 567, 128 U.S. App. D.C. 311).

§ 24-208. Power of Board—Prisoners sentenced to more than 180 days—Minimum sentence required to be served.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-207.

§ 24-209. Federal Parole Board—Authority over United States prisoners convicted in the District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-203, 24-207.

Chapter 3.—INSANE CRIMINALS

Sec.

24-301. Commitment of persons of unsound mind to the District of Columbia General Hospital—Certification to the court—Acquittal by jury on grounds of insanity—Confinement in a mental institution—Conditions for release after confinement — Conditional release — Expenses — Writ of habeas corpus—Inconsistent provisions of Federal Statutes superseded—Return order for apprehension of escaped inmates—Procedure and time limitation for pleading insanity as a defense.

§ 24-301. Commitment of persons of unsound mind to the District of Columbia General Hospital—Certification to the court—Acquittal by jury on grounds of insanity—Confinement in a mental institution—Conditions for release after confinement—Conditional release—Expenses—Writ of habeas corpus—Inconsistent provisions of Federal Statutes superseded—Return order for apprehension of escaped inmates—Procedure and time limitation for pleading insanity as a defense.

* * * * *

(i) When a person has been ordered confined in a hospital for the mentally ill pursuant to this section and has escaped from such hospital, the court which ordered confinement shall, upon request of the Government, order the return of the escaped person to such hospital. The return order shall be effective throughout the United States. Any Federal judicial officer within whose jurisdiction the escaped person shall be found shall, upon receipt of the return order issued by the committing court, cause such person to be apprehended and delivered up for return to such hospital.

(j) Insanity shall not be a defense in any criminal proceeding in the United States District Court for the District of Columbia or in the District of Columbia court of general sessions, unless the accused or his attorney in such proceeding, at the time the accused enters his plea of not guilty or within fifteen days thereafter or at such later time as the court may for good cause permit, files with the court and serves upon the prosecuting attorney written notice of his intention to rely on such defense. (As amended Dec. 27, 1967, Pub. L. 90-226, § 201, title II, 81 Stat. 735.)

AMENDMENT

1967—Section 201, Act Dec. 27, 1967, Pub. L. 90-226, amended section by adding subsections i and j.

SENTENCE FOR OFFENSES COMMITTED PRIOR TO DEC. 27, 1967

Section 1101, Act Dec. 27, 1967, Pub. L. 90-226, provided: Whoever, prior to the date of enactment of this Act [Pub. L. 90-226] commits any act or engages in any conduct which constitutes an offense under provision of law amended by this Act, [Amendments of sections 4-140, 15-714, 15-716, 22-501, 22-703, 22-1513, 22-1801, 22-2001, 22-2901, 22-3105, 22-3201, 22-3202, 23-610, 23-901, 23-903, 24-301 and enactments of sections 4-140a, 4-150a and 22-1122, and amendments of 18 U.S.C. 4122, 5024 and 5025] shall be sentenced in accordance with the law in effect on the date he commits such acts or engages in such conduct.

SEPARABILITY OF PROVISIONS

Section 1102, Act Dec. 27, 1967, Pub. L. 90-226, provided: If any provision of or any amendment made by this Act [Pub. L. 90-226; for provisions and amendments made by this Act, see enumeration in note above under heading, "Sentence for offenses committed prior to Dec. 27, 1967."] or the application thereof to any person or circumstance is held invalid, the other provisions of or other amendments made by this Act and the application of such provisions and amendments to other persons or circumstances shall not be affected thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-303.

NOTES TO DECISIONS

Acquiescence in plea of insanity

Where petitioner had not himself sought introduction of insanity defense at his trial and had not acquiesced in assertion of that defense, his commitment to hospital for the mentally ill following his acquittal by reason of in-

sanity was not authorized and he was entitled to habeas corpus. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Administrative credit against sentence

Defendant, who pleaded guilty in 1964 to narcotics offense carrying mandatory minimum sentence, who, after arrest, was unable to make bail and was thus in jail when he moved for mental examination, and who was given administrative credit for time spent in jail prior to trial before and after commitment for examination, was also entitled to credit against sentence for time spent in hospital pursuant to order for examination, and credit was to be given administratively by Attorney General and not as exercise of sentencing court's discretion. *P. R. Sawyer v. R. Clark, Attorney General etc., et al.* (1967, 386 F. 2d 633, 128 U.S. App. D.C. 206).

Amnesia

Amnesia per se in case where recollection was present during time of alleged offenses and where defendant has ability to construct a knowledge of what happened from other sources, and where he has present ability to follow course of proceedings against him and discuss them rationally with his attorney does not constitute incompetency per se, and loss of memory should bar prosecution only when its presence would in fact be crucial to construction and presentation of defense and hence essential to fairness and accuracy of the proceedings. *United States v. R. Wilson* (1966, 263 F. Supp. 528).

Where defendant after crimes were committed was involved in automobile accident and suffered cerebral contusions and concussion which resulted in amnesia which prevented him from recollecting any events that took place on afternoon when crimes were committed, but who could construct a knowledge of what transpired from information given to him from other sources, and, except for such vacuity of memory, was perfectly able to follow course of proceedings against him and to discuss them with his attorney, was legally competent to stand trial. *Id.*

Burden of proof

Burden of proof, in habeas corpus proceeding by one committed to mental hospital after being found not guilty by reason of insanity, is the same as that for civilly committed patients. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that habeas corpus petitioner must prove that his detention is illegal by preponderance of evidence applies in habeas corpus proceeding by one committed to mental hospital after being found not guilty of offense by reason of insanity, and thus court must find, by preponderance of evidence, that patient's commitment is no longer valid, that is, that he is no longer likely to injure himself or other persons due to illness. *Id.*

Burden of proof after commitment

One who seeks release, without statutory certification by superintendent of hospital, from commitment to hospital after being found not guilty of crime by reason of insanity must show that he has recovered his sanity and that such recovery has reached point where he has no abnormal mental condition which in reasonably foreseeable future would give rise to danger to patient or to public in event of his release. *United States v. M. Charnizon* (D.C. App. 1967, 232 A. 2d 586).

Where, at hearing to revoke patient's conditional release from state hospital following commitment after having been found not guilty of crime by reason of insanity, positive expert medical opinion was presented that patient had not recovered and would be danger to himself and others if released, order directing unconditional release of patient did not meet standards set forth by statute and thus, without certificate recommending either conditional or unconditional release and in absence of evidence on his behalf, patient was not entitled to be released. *Id.*

Burden of proof on petition for release

Petitioner seeking release from hospital by writ of habeas corpus after commitment pursuant to statute after being found not guilty of crime by reason of insanity has burden of showing his eligibility for relief and must estab-

lish freedom from such abnormal mental condition as would make individual dangerous to himself or community in reasonably foreseeable future. *L. W. Collins v. D. C. Cameron, Sup't etc.* (1967, 377 F. 2d 945, 126 U.S. App. D.C. 306).

Evidence that petitioner was suffering from mental illness of psychotic proportions and that petitioner was daily administered tranquilizing drug and that if medicine were discontinued petitioner would resort to alcohol supported finding that petitioner would be dangerous to himself or others if released. *Id.*

Commitment after acquittal by reason of insanity

Statute to effect that when, prior to imposition of sentence or prior to expiration of any period of probation, it shall appear to court that accused is of unsound mind or mentally incompetent so as to be unable to understand proceedings against him or to properly assist in his own defense, court may order accused committed for observation and treatment, if necessary, does not authorize commitment after verdict of not guilty by reason of insanity. *D. C. Cameron Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Under statute to effect that when it appears to court that accused is of unsound mind or mentally incompetent so as to be unable to stand trial, court may confine him for observation and treatment, if necessary, and that, if hospital reports that person is of unsound mind or mentally incompetent, court may commit him to mental hospital unless he or government objects in which event court must hold hearing to determine competency of accused to stand trial, court is empowered to hold a hearing only to determine competency. *Id.*

Commitment procedure

Commission of criminal acts does not give rise to a presumption of dangerousness which, standing alone, justifies substantial difference in commitment procedures and confinement conditions for mentally ill, and that, while prior criminal conduct is relevant to the determination whether person is mentally ill or dangerous, it cannot justify denial of procedural safeguards for such determination, and that while prior criminal conduct is a relevant consideration, it does not provide automatic basis for allowing significant and arbitrary differences in such conditions where defendant is acquitted on his own plea of insanity. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

There is no reasonable basis for distinction for commitment purposes between those who plead insanity and those who have defense thrust upon them, and neither may be automatically deprived of type of protection afforded by 1964 Hospitalization of Mentally Ill Act. *Id.*

Fact that persons acquitted by reason of insanity have committed criminal acts and that such fact may tend to show they meet requirements for commitment does not remove such requirements nor justify total abandonment of procedures used in civil commitment proceedings to determine whether such requirements have been satisfied. *Id.*

Persons found not guilty by reason of insanity must be given judicial hearing with procedures substantially similar to those in civil commitment proceedings. *Id.*

Where feasible, requirements of Hospitalization of Mentally Ill Act as to notice, counsel, and jury trial should be followed in connection with judicial hearing afforded persons found not guilty by reason of insanity. *Id.*

Rule that persons found not guilty by reason of insanity must be given judicial hearing with procedures substantially similar to those in civil commitment proceedings is applicable prospectively only. *Id.*

Commitment without hearing

Commitment, without hearing, of one found not guilty by reason of insanity is permissible for period required to determine present mental condition. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Competence to stand trial

For purposes of determining one's competence to stand trial, that is, whether he is able to understand proceedings against him or properly assist in his defense, inquiry

is focused on present mental condition, namely, at time of trial. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

For purposes of determining criminal responsibility, that is, whether act charged, if committed, was product of mental disease or defect, inquiry is focused on past mental condition, namely at time of offense. *Id.*

Competency examination

When a trial court has reasonable grounds to suspect a criminal defendant of being an addict, trial court should exercise his discretion and order competency examination of defendant. *T. Grennett v. United States* (1968, 403 F. 2d 928, 131 U.S. App. D.C. 203).

Competency hearing

Competency hearing must be of record and both parties must be given opportunity to examine all witnesses who testify or report on accused's competence. *T. E. Blunt v. United States* (1967, 389 F. 2d 545, 128 U.S. App. D.C. 375).

Judicial determination of competency must be an informed one. *Id.*

Careful evaluation of accused's condition is required of court during competency hearing. *Id.*

Where, in competency hearing, court blocked attempts to ask hospital's staff psychiatrist about basis for hospital superintendent's conclusion that accused was competent and foreclosed meaningful inquiry when counsel sought to identify area of differences between that conclusion and contrary conclusion of hospital's clinical psychologist, there was no possibility of full and scrupulous evaluation of defendant's competency, precluding informed judicial determination of competency. *Id.*

Where finding as to competency was based on hearing held almost 30 months before it was determined that there had not been a properly informed judicial determination, a new trial rather than remand for nunc pro tunc proceedings was required. *Id.*

Competency to stand trial

If accused is not presently insane or potentially dangerous to himself or others, it is illegal to commit him under statute providing that if court, after competency hearing, shall find accused to be then of unsound mind or mentally incompetent to stand trial, court shall order accused confined to hospital for mentally ill. *United States v. R. Wilson* (1966, 263 F. Supp. 528).

Consent of defense of insanity

Finding that petitioner himself sought introduction of insanity defense at his trial was clearly erroneous in view of evidence, including evidence, that new counsel retained by petitioner's mother did not confer with petitioner prior to filing motion for pretrial mental examination and that petitioner did not even know new counsel's identity when he saw him at hearing on the motion and thought that he was still being represented by assigned counsel. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Finding that petitioner evidenced his acquiescence in insanity defense by waiting almost four years to attack validity of his mandatory commitment to hospital for the mentally ill was not warranted in light of petitioner's apparent disabilities, including his lack of financial means and learning in the law and the likelihood that he had been suffering from some mental illness. *Id.*

Construction

Where an offense was committed less than one year before hearing on the government's motion for a mental examination and defendant had requested bifurcated trial and had filed notice of insanity defense, the court was justified in invoking provisions relating to mental examination of accused. *P. W. Marcey v. D. W. Harris* (1968, 400 F. 2d 772, 130 U.S. App. D.C. 301; remanding 287 F. Supp. 73).

Pretrial commitment pursuant to provisions relating to mental examination of accused is for purposes of pretrial mental examination and is not ground for denial of bail otherwise contemplated by Bail Reform Act. *Id.*

Purpose of statute providing for mandatory commitment of person acquitted on ground that he was insane at time of commission of offense and prescribing release standards was to achieve balance of interest between public and person charged with crime by insuring that in

every case where person committed crime as result of mental disease or defect, such person should be given period of hospitalization to guard against imminent recurrence of some criminal act. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Purpose of subsection of District of Columbia Code prohibiting defense of insanity unless accused or his attorney files notice of intention to rely on such defense was to prevent defense being interposed unexpectedly at trial when government was not prepared with evidence to meet it. *P. W. Marcey v. D. W. Harris, Acting Superintendent, etc.* (1968, 287 F. Supp. 73; remanded 400 F. 2d 772).

District of Columbia Code section authorizing commitment to mental institution for mental examination as to defendants charged with criminal offenses should be broadly construed and it authorizes commitment for examination as to mental capacity to commit crime at time offense was committed. *Id.*

Only those hospitalized pursuant to Hospitalization of Mentally Ill Act are guaranteed by the act civil rights to dispose of property, execute instruments, make purchases, enter into contractual relationships, vote, or hold driver's license. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Statute to effect that when it appears to court that accused is of unsound mind or is mentally incompetent so as to be unable to understand proceedings against him court may order accused committed for observation and treatment if necessary did not authorize trial judge's affording hearing to determine for commitment purposes mental condition of accused found not guilty by reason of insanity, applying release standards of 1964 Hospitalization of the Mentally Ill Act or extending to accused rights which the 1964 Act guaranteed only to those civilly committed. *Id.*

Continuance for mental examination

Continuance should be allowed on clear showing of need for mental examination or for appointment of independent psychiatrist. *R. T. Brown v. United States* (D.C. App. 1968, 244 A. 2d 487).

Where defense counsel failed or refused to present to court factual basis for his conclusion that defendant possibly suffered from mental disease or defect at time of alleged crime, trial court's denial of request for continuance was not an abuse of discretion even if such request should have been treated as motion for mental examination and for appointment of independent expert. *Id.*

Court's findings

Court's findings concerning mental illness and dangerous propensities are not to be disturbed unless they lack support in record or rest on an erroneous legal principle. *G. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Effect of commitment

Commitment to St. Elizabeth's hospital does not automatically render person incompetent for most purposes. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Eligibility for release

To establish eligibility for release on habeas corpus, patient committed to mental hospital after being found not guilty of offense by reason of insanity must prove freedom from such abnormal mental condition as would make individual dangerous to himself or community in reasonably foreseeable future. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Patients committed to mental hospital after being found not guilty by reason of insanity may establish their eligibility for release by writ of habeas corpus. *Id.*

Evidence of competence at trial

Full and scrupulous attention must be given to any evidence concerning competency at trial, whether or not there has been a competency hearing. *T. E. Blunt v. United States* (1967, 389 F. 2d 545, 128 U.S. App. D.C. 375).

Evidence—Sufficiency

In this case in light of the evidence on issue of whether offense was product of mental illness, conviction for rob-

bery of property belonging to United States, assault with a dangerous weapon and carrying dangerous weapon would be affirmed. *T. H. Adams v. United States* (1969, 413 F. 2d 411, — U.S. App. D.C. —).

Habeas corpus

Petitioner involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity had right to treatment that was cognizable in habeas corpus, and law and justice required remand for hearing and findings on whether petitioner had received adequate treatment and, if not, the details and circumstances underlying the reason why he had not. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Hearing and findings

Patient, who had been committed to hospital under statute after having been acquitted on criminal charge solely on ground that he was insane, who had received little or no treatment at hospital, and who brought habeas corpus proceeding in federal District Court, was entitled to hearing and findings as to whether he was receiving adequate treatment, and, if he was not, District Court could allow hospital reasonable opportunity to initiate treatment, and unconditional or conditional release might be in order if it should appear that opportunity for treatment had been exhausted or treatment was otherwise inappropriate. *W. G. Tribby v. D. Cameron, Superintendent etc.* (1967, 379 F. 2d 104, 126 U.S. App. D.C. 327).

Judicial determination by court

Federal district court which had been asked to reimpose complete restriction on patient who had been conditionally released from hospital to which he had been committed after being found not guilty of robbery by reason of insanity was required to make independent judicial determination. *F. W. Friend v. United States* (1967, 388 F. 2d 579, 128 U.S. App. D.C. 323).

Legally competent

Conceptual range of expression "legally incompetent" only embraces deficiencies in accused which actually prevents his fair trial, and mere deficiency, standing alone, is outside limits of the concept. *United States v. R. Wilson* (1966, 263 F. Supp. 528).

Mandamus

Without a full record of the trial even if petitioner was constitutionally entitled to further protection of his rights during hospital staff conference held in connection with a pre-indictment mental examination requested by petitioner, it could not be said that presence of petitioner's counsel, as opposed to some alternative device such as recording some or all parts of conference, was an appropriate remedy, so that mandamus to compel an order against hospital to permit presence of petitioner's counsel was not available. *R. N. Thornton v. Hon. H. F. Corcoran* (1969, 407 F. 2d 695, 132 U.S. App. D.C. 232).

Mandatory commitment

Mandatory commitment under statute providing that any person acquitted solely on ground that he was insane at time of commission of crime shall be confined in a hospital for the mentally ill is permissible only if defendant affirmatively relied on defense of insanity. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 387 F. 2d 241, 128 U.S. App. D.C. 283).

Under statute providing that any person acquitted solely on ground that he was insane at time of commission of crime shall be confined in hospital for mentally ill, Congress did not intend to allow automatic commitment when the defense of insanity was thrust upon a defendant who objected to it. *Id.*

Mental examination before verdict

The decision to commit is a matter of discretion with the court and the exercise of that discretion will not lightly be disturbed.

The evidence did not show a need for a mental examination. *F. E. Wesley v. United States* (D.C. App. 1967, 233 A. 2d 514).

Periodic examinations

Statute governing release of persons acquitted by reason of insanity entitles patient to periodic examinations by

hospital staff and right to be examined by outside psychiatrist and, if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Rule that patient committed to mental hospital after being found not guilty of offense by reason of insanity is entitled to periodic examinations by hospital staff and right to be examined by outside psychiatrist, and that if one of examining physicians believes he should no longer be hospitalized, he is entitled to court hearing applies to all cases including those previously committed under statute providing for mandatory commitment of persons acquitted by reason of insanity. *Id.*

Policy of statute

Underlying policy of statute government commitment and release of persons found not guilty of crime by reason of insanity is to provide treatment and cure for individual in manner which affords reasonable assurance of public safety. *United States v. M. Charnizon* (D.C. App. 1967, 232 A. 2d 586).

Pretrial mental examination

Although five months before trial it had been determined that defendant was suffering from drug addiction which was in remission, where defendant did not testify, there was no expert testimony as to any abnormal mental condition, defendant did not seek hearing and there was no evidence of long record of disturbed behavior, failure of trial judge sua sponte to grant hearing on issue of mental competence to stand trial was not basis for reversal. *R. R. Powell v. United States* (1966, 373 F. 2d 225, 125 U.S. App. D.C. 364).

There must be facts which create a substantial doubt of defendant's mental competence before due process requires the trial judge to order hearing thereon sua sponte. *Id.*

Proof of need for mental examination

Motion for mental examination is made on adequate averment, not on counsel's belief, however sincere, that certain undisclosed facts lead him, or a psychiatrist, or a social psychologist, to suspect examination is required. *R. T. Brown v. United States* (D.C. App. 1968, 244 A. 2d 487).

Counsel may in his motion for continuance offer to make ex parte proffer of facts showing need for mental examination and for appointment of independent psychiatrist. *Id.*

Where motion for continuance was supported by counsel's statement that certain undisclosed facts lead him to believe that defendant suffered from mental disease at time of trial but did not state facts on which such belief was based, denial of continuance did not deprive defendant of substantial rights or fair trial. *Id.*

Psychologist's qualifications

Court which rather than evaluating psychologist's qualifications in competency hearing turned hearing into inquiry into any psychologist's competency, without medical training, to make informed observations about accused was erroneous. *T. E. Blunt v. United States* (1967, 389 F. 2d 545, 128 U.S. App. D.C. 375).

Lack of general medical background may affect weight given to psychologist's testimony in incompetency hearing. *Id.*

Psychiatric assistance

As to assertion of a claim, on appeal from denial of habeas corpus relief, that the petitioner had not had such court-appointed psychiatric assistance to which interests of justice entitled him for the preparation and presentation of his habeas corpus case, the court would take judicial notice that over a dozen years or more the medical views of government psychiatrists, as a whole, generally turned out to be more favorable to defendants than to the prosecutors in verdicts of not guilty by reason of insanity. *A. Proctor v. D. W. Harris* (1969, 413 F. 2d 383, — U.S. App. D.C. —).

The petitioner, who sought release from a mental hospital to which he was confined pursuant to commitment following a verdict of not guilty of criminal charges by reason of insanity, and on whose application an independent psychiatric examination was ordered, was granted

full and meaningful habeas corpus hearing without being denied any relevant or other legitimate assistance from government employed psychiatrist and was not entitled to relief on the theory that he had not had court-appointed psychiatric assistance to which interests of justice entitled him for preparation and presentation of his habeas corpus case. *Id.*

Public policy

However strong and pervasive public policy to bring the morally responsible to bar, it cannot subvert constitutional right to fair trial which is not afforded to accused who is prosecuted while legally incompetent. *United States v. R. Wilson* (1966, 263 F. Supp. 528).

Purpose of detention

Purpose of detention under statute providing for commitment of person acquitted of crime by reason of insanity is not punitive but serves to protect the public and the subject and to afford place and procedure to treat and, if possible, to rehabilitate the subject. *L. W. Collins v. D. C. Cameron, Sup't etc.* (1967, 377 F. 2d 945, 126 U.S. App. D.C. 306).

Purpose of involuntary hospitalization

Purpose of involuntary hospitalization is treatment, not punishment. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Reason for continued confinement

That person involuntarily committed and confined has some dangerous propensities does not, standing alone, warrant his continued confinement in a government mental institution; the dangerous propensities must be related to or arise out of an abnormal mental condition. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Continued confinement of one involuntarily committed on being acquitted of an offense by reason of insanity depends not upon fact that he committed the acts, but upon his present mental condition. *Id.*

Reasonable opportunity to initiate treatment

If court finds that a mandatorily committed patient is in custody in violation of Constitution and laws, for failure to receive treatment, it may allow hospital a reasonable opportunity to initiate treatment, but if opportunity for treatment has been exhausted or is otherwise inappropriate, conditional or unconditional release may be in order. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

Release provisions

Release provisions of statute governing commitment to mental hospital of one found not guilty by reason of insanity are valid even though they differ from civil commitment procedures by authorizing court review of hospital's decision to release patient. *G. C. Bolton v. D. W. Harris, Acting Superintendent etc.* (1968, 395 F. 2d 642, 130 U.S. App. D.C. 1).

Equal protection is not offended by allowing government or court opportunity to insure that standards for release of civilly committed patients are faithfully applied to patients committed after having been found not guilty by reason of insanity. *Id.*

Resolution of reasonable doubt

Although patient committed to hospital after having been found not guilty of crime by reason of insanity may have improved materially and appears to be a good prospect for restoration as useful member of society, if abnormal mental condition renders him potentially dangerous, reasonable medical doubts or reasonable judicial doubts are to be resolved in favor of public and in favor of subject's safety. *United States v. M. Charnizon* (D.C. App. 1967, 232 A. 2d 586).

In ordering conditional release of patient committed to hospital after having been found not guilty of crime by reason of insanity, court must conclude that individual has recovered sufficiently so that under proposed conditions person will not in reasonable future be dangerous to himself or others. *Id.*

Review

Review of order revoking conditional release from hospital to which patient had been committed after being

found not guilty of robbery by reason of insanity was not precluded by mootness on ground that another conditional release order had been issued, in view of fact that his complete hospital detentions would usually be for relatively brief time, not likely long enough to finish appellate review. *F. W. Friend v. United States* (1967, 388 F. 2d 579, 128 U.S. App. D.C. 323).

Revocation of conditional release

Noncompliance with conditions of release from hospital by patient who had been committed there after having been found not guilty of robbery by reason of insanity was significant but was not the sole or ultimate consideration in determining whether to revoke conditional release; findings as to his mental condition and dangerousness were required. *F. W. Friend v. United States* (1967, 388 F. 2d 579, 128 U.S. App. D.C. 323).

Right to treatment

One involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity has a right to treatment. *C. C. Rouse v. D. C. Cameron, Sup't etc.* (1967, 373 F. 2d 451, 125 U.S. App. D.C. 366).

On issue of right to treatment of one involuntarily committed on being acquitted of an offense by reason of insanity, hospital need not show that treatment will cure or improve him but only that there is bona fide effort to do so, and this requires hospital to show that initial and periodic inquiries are made into needs and conditions of patient with view to providing suitable treatment for him, and that the program provided is suited to his particular needs. *Id.*

On issue of right to treatment of one involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity, effort should be to provide treatment which is adequate in light of present knowledge. *Id.*

Continuing failure to provide suitable and adequate treatment of one involuntarily committed to mental hospital on being acquitted of an offense by reason of insanity cannot be justified by lack of staff or facilities. *Id.*

Scope of mandatory commitment

Notwithstanding fact that appeal of denial of petition for writ of habeas corpus by person, who was acquitted by reason of insanity and summarily committed to mental hospital pursuant to mandatory provisions of District of Columbia statute raised substantial questions concerning scope of mandatory commitment and its relationship to the Hospitalization of the Mentally Ill Act, in view of petitioner's unconditional release from hospital while appeal was pending, appeal was dismissed as moot. *S. I. Solomon v. D. C. Cameron, Sup't etc.* (1967, 377 F. 2d 170, 126 U.S. App. D.C. 285).

Scope of review

That petitioner eloped from hospital, to which she had been committed, after district court had stayed its order of release in habeas corpus proceeding did not render moot government's appeal, inasmuch as district court had jurisdiction over petitioner at time of its order. *D. C. Cameron, Sup't etc. v. C. Mullen etc.* (1967, 387 F. 2d 193, 128 U.S. App. D.C. 235).

Appellate function of Court of Appeals was to act upon propriety of decision of district court issuing writ of habeas corpus and ordering release of petitioner committed to hospital, even though petitioner had eloped from hospital after district court had stayed its order of release. *Id.*

As long as there was outstanding an order of restraint on liberty of petitioner and as long as her custodians were within jurisdiction of Court of Appeals, habeas corpus case involving propriety of committing petitioner to hospital was not moot, and could not be dismissed on ground that petitioner who had eloped from hospital was not in custody for habeas corpus purposes. *Id.*

Unconstitutional punishment

Defendant committed to hospital pursuant to statute after being found not guilty by reason of insanity on charge of second-degree murder who was not being detained solely for administration of tranquilizing drug which might have been administered outside hospital and who was receiving other forms of therapy was not being

unconstitutionally punished. *L. W. Collins v. D. C. Cameron, Sup't etc.* (1967, 377 F. 2d 945, 126 U.S. App. D.C. 306).

Waiver of competency hearing

Where conviction was reversed because of error relating to issue of insanity, although newly appointed counsel at second competency hearing agreed to finding of defendant's competency, in view of nature of testimony adduced at prior hearing, defendant's previous history with respect to competency to stand trial and insanity and fact that his counsel apparently did not have benefit of transcript of first hearing, a full hearing was required. *T. E. Blunt v. United States* (1967, 389 F. 2d 545, 128 U.S. App. D.C. 375).

Fact that neither defendant nor government objected at trial to court's acceptance of hospital certification of competency without holding a hearing could not be viewed as waiver by defendant of his rights, but it did authorize trial court in its discretion to proceed with trial without a competency hearing. *C. Heard, Jr. v. United States* (1967, 263 F. Supp. 613).

Chapter 4.—PRISONS AND PRISONERS

SUBCHAPTER I.—PRISONS

§ 24-402. Sentence of prisoners to jail, reformatory, or penitentiary for more than one year—Jurisdiction of Commissioners over prisoners in reformatory—Transfer of prisoners from penitentiary to reformatory.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-403. Transfer of prisoners from jail to workhouse.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-411. Superintendent and all other employees—Appointment—Discharge—Supervision of Board of Public Welfare.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-412. Employment of prisoners.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(211) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the

right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-413, 24-421.

§ 24-413. Commitment by marshal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-414, 24-421.

§ 24-414. Delivery of prisoners to marshal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-421.

§ 24-415. Superintendent of Washington Asylum and Jail accountable for safe-keeping of prisoners.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-413, 24-421.

§ 24-416. Annual report by Superintendent of Washington Asylum and Jail.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-421.

§ 24-417. Superintendent required to execute judgments in capital cases—Failure of Congress to make specific appropriation not abolition of position or repeal of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-418. Sale of products of workhouse and reformatory.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(212) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 24-418a. Sale of gun mountings to States of the Union and their political subdivisions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-420. Grounds of jail increased.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-425. Place of imprisonment—Designation by Attorney General—Transfer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-203, 24-207, 24-468, 24-506.

SUBCHAPTER II.—DEPARTMENT OF CORRECTIONS

§ 24-441. Department of Corrections created—Director.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-442. Powers of Department over institutions—Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(213) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to rules and regulations for the government of institutions, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 24-443. Board of Public Welfare powers transferred to Department—Officers and employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-444. Rules and regulations of Board of Public Welfare in effect.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-446. Cost of care and custody of persons confined in institutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER III.—CORRECTIONAL INDUSTRIES FUND

§ 24-451. Establishment of fund.

CROSS REFERENCE

Applicability of U.S. Laws to District, see 18 U.S.C. 4122. Rehabilitation of youth offenders in District, see 18 U.S.C. 5025.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-455.

§ 24-452. Availability of fund for performance of services and production of commodities for rehabilitation of inmates—Accounting for the fund.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-453. Sale of products and services to District, Federal and State governments—Receipts from sales to be deposited in fund—Use of funds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-454. Reports of financial condition and results of operations to be made by Director of the Department of Corrections to Commissioners—Disposition of realized profits—Net worth of fund not to be increased beyond \$2,500,000—Payments to inmates and their dependents—Excess profits to be deposited to general funds of the district.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER IV.—WORK RELEASE PROGRAM

§ 24-464. Rules and regulations—Individual plans for each prisoner granted privilege.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(426) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other

functions of the Board of Commissioners, under this section to the District of Columbia Council, to the extent prescribed in par. 426, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 24-466. Collection of earnings—Deposit in trust fund—Immunity from attachment—Disbursements—Payment of balance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-467.

§ 24-468. Authority of Attorney General to designate Commissioners to perform functions vested under section 24-425, for purposes of this subchapter.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 24-469. Authority of Commissioners under Reorganization Plan not affected—Delegation of functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—REHABILITATION OF ALCOHOLICS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 25-111a.

Sec.

24-501 to 24-513. Omitted.

24-514. Repealed.

24-521. Purpose.

24-522. Definitions.

24-523. Public health program for intoxicated persons and chronic alcoholics—Detoxification centers and other facilities—Delegation of functions by Commissioner.

24-524. Procedures for dealing with persons who are found intoxicated in public—Filing of criminal charges against chronic alcoholics—Dealing with intoxicated persons who violate certain laws—Records of detoxification center to be confidential.

Sec.

24-525. Voluntary admission to inpatient centers—Medical officer in charge to determine who shall be admitted as a patient—Program for patients who are not chronic alcoholics—Involuntary detention not permitted, except by Court order.

24-526. Outpatient treatment of chronic alcoholics—Medical director to determine who shall be admitted for outpatient treatment—Care of chronic alcoholics for whom recovery is unlikely—Compulsory participation not permitted, except by Court order.

24-527. Commitment of chronic alcoholics by Court order for treatment—Hearing and findings required before commitment—Writ of habeas corpus—Right to counsel—Term of Commitment.

24-528. Applicability of chapter to chronic alcoholics who have not been determined to be mentally ill.

24-529. Commissioner may contract with appropriate public or private organizations to carry out purposes of this chapter.

24-530. Programs for the prevention and treatment of alcoholism and rehabilitation of alcoholics among District employees and in private industry.

24-531. Program for the prevention and treatment of alcoholism and rehabilitation of alcoholics in correctional institutions.

24-532. Program for the prevention of alcoholism and the treatment and rehabilitation of incipient alcoholics among juveniles and young adults.

24-533. Evaluation of programs for treatment of chronic alcoholics—Recommendations to Congress by Commissioner—Publication of data and statistics—Implementation of objectives of this chapter—Use of Federal funds, programs and facilities.

24-534. Liability for cost of treatment—Procedures for determining liability and ability to pay—Waiver of liability by Commissioner, in certain cases—Actions to recover cost of treatment—Deposit into United States Treasury of sums collected.

24-535. Donations of services and gifts—Deposit of gifts in a trust fund account in the Treasury of the United States—Use of gifts, by Commissioner, to carry out purposes of this chapter.

§§ 24-501 to 24-513. Omitted.

These sections dealing with rehabilitation of alcoholics being sections 1 to 13 of the act of Aug. 4, 1947, 61 Stat. 744, ch. 742 are omitted for the reason that section 3(a) of the act of Aug. 3, 1968, Pub. L. 90-452, amended these sections by striking them out and inserting in lieu thereof new sections 1 to 15, classified herein as sections 24-521 to 24-535. For provisions of the omitted sections see the 1967 edition of the code. Section 14 of the act of Aug. 4, 1947 was renumbered as section 16 by section 3(b) of Pub. L. 90-452 and former section 15 was repealed by section 3(c) of the same act.

§ 24-514. Repealed. Aug. 3, 1968, Pub. L. 90-452, 82 Stat. § 3(c).

Section 15, act Aug. 4, 1947, 61 Stat. 747, ch. 472, dealt with the appointment of an advisory committee, by former District Commissioners.

EFFECTIVE DATE OF REPEAL

Section 4 of the act of Aug. 3, 1968, Pub. L. 90-452, provided: "The amendments made by section 3 of this Act [classified to sections 24-521 to 24-535, 25-111a and repealing this section] shall take effect on the ninetieth day following the date of its enactment." [Aug. 3, 1968.]

§ 24-521. Purpose.

The purpose of this chapter is to establish a comprehensive program in the District of Columbia for the prevention of alcoholism and the rehabilitation

of alcoholics, discourage abuse of alcoholic beverages, and provide for medical, psychiatric, and other scientific treatment of chronic alcoholics; to minimize the deleterious effects of excessive drinking; to reduce the financial burden imposed upon the people of the District of Columbia by the abusive use of alcoholic beverages, as is reflected in accidents, inefficiency of personnel, and absenteeism; and to establish methods of handling intoxication and alcoholism that will benefit the individual involved and more fully protect the public. In order to accomplish this purpose and alleviate intoxication and chronic alcoholism, all public officials in the District of Columbia shall take cognizance of the fact that public intoxication shall be handled as a public health problem rather than as a criminal offense, and that a chronic alcoholic is a sick person who needs, is entitled to, and shall be provided appropriate medical, psychiatric, institutional, advisory, and rehabilitative treatment services of the highest caliber for his illness. (Aug. 4, 1947, 61 Stat. 744, ch. 472, § 1; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 618.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, Pub. L. 90-452 amended the act of Aug. 4, 1947, by striking out sections 1 through 13 and inserting in place thereof new sections 1 to 15. The act of Aug. 4, 1947 contained 15 sections, the first thirteen of which were classified to sections 24-501 to 24-513, section 14 was classified to 25-111a, and section 15 to 24-514. Section 3(b) of the Pub. L. 90-452 amended former section 14 by striking out "Sec. 14" and inserted in lieu thereof "Sec. 16" and Section 3(c) of the same public law repealed former Section 15. Section 1 of the act of Aug. 4, 1947 as amended by Pub. L. 90-452, is set out above. Former section 1 classified to section 24-501 also stated the objectives but in substantially different language. For its provisions see section 24-501 in the 1967 edition of the code.

EFFECTIVE DATE OF AMENDMENT

Section 4 of act Aug. 3, 1968, Pub. L. 90-452, provided: "The amendments made by section 3 of this Act [classified to sections 24-521 to 24-535, 25-111a and repealing section 25-514] shall take effect on the ninetieth day following the date of its enactment." [Aug. 3, 1968.]

SHORT TITLE

Section 1, act Aug. 3, 1968, Pub. L. 90-452, provided: "That this Act [amending sections 4-143, 25-128, renumbering section 14 of the Act of Aug. 4, 1947, ch. 472, as section 16, classified as section 25-111a, repealing section 24-514, striking out sections 1 to 13 of the Act of Aug. 4, 1947 and inserting new sections 1 to 15, classified as sections 24-521 to 24-535] may be cited as the "District of Columbia Alcoholic Rehabilitation Act of 1967".

§ 24-522. Definitions.

For purposes of this chapter—

(1) The term "chronic alcoholic" means any person who chronically and habitually uses alcoholic beverages to the extent that (A) they injure his health or interfere with his social or economic functioning, or (B) he has lost the power of self-control with respect to the use of such beverages.

(2) The term "Court" means the District of Columbia Court of General Sessions.

(3) The term "Commissioner" means the Commissioner of the District of Columbia. (Aug. 4, 1967, 61 Stat. 744, ch. 472, § 2; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 618.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section as above set out. Former section 2 of the

act of Aug. 4, 1947, was classified to section 24-502, set out in the 1967 edition of code and contained a substantially different definition of the term "chronic alcoholic." See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-523. Public health program for intoxicated persons and chronic alcoholics—Detoxification centers and other facilities—Delegation of functions by Commissioner.

(a) The Commissioner shall establish and maintain an effective public health program in the District of Columbia to provide a continuum of appropriate services to intoxicated persons and chronic alcoholics. Such program shall coordinate all District of Columbia services for intoxicated persons and chronic alcoholics and shall include at least the following facilities which shall be available to both males and females:

(1) One or more detoxification centers, which shall be located within the District of Columbia, which shall have a total capacity of not more than 150 beds, and which shall provide appropriate medical services for intoxicated persons, including initial examination, diagnosis, and classification.

(2) An inpatient extended care facility which shall have a capacity of not more than 800 beds and which shall provide intensive study, treatment, and rehabilitation of chronic alcoholics. Such facility shall not admit intoxicated persons.

(3) Outpatient aftercare facilities which may include clinics, social centers, vocational rehabilitation services, and supportive residential facilities and which shall have a total capacity of not more than 600 beds.

(b) The Commissioner may—

(1) establish or designate an agency of the District of Columbia government, and

(2) designate any officer or employee of the District of Columbia government, to carry out any of his functions, powers, and duties under this chapter. (Aug. 4, 1947, 61 Stat. 744, ch. 472, § 3; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 619.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 3, as above set out. Former section 3 of the act of Aug. 4, 1967 was classified to section 24-503, set out in the 1967 edition of the Code and contained provisions relating to the establishment and use of an alcoholic clinic. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

TRANSFER OF FUNCTIONS

For provisions regarding the duties of the Director of Public Health in relation to development of a program for the prevention etc.; of alcoholism, see Org. Ord. No. 141, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-524, 24-525, 24-526.

§ 24-524. Procedures for dealing with persons who are found intoxicated in public—Filing of criminal charges against chronic alcoholics—Dealing with intoxicated persons who violate certain laws—Records of detoxification center to be confidential.

(a) Except as otherwise provided in subsection (b) of this section, any person who is intoxicated in public—

(1) may be taken or sent to his home or to a public or private health facility, or

(2) if not taken or sent to his home or such facility under paragraph (1), shall be taken to a detoxification center,

by the commissioner. Reasonable measures may be taken to ascertain that public transportation used for such purposes shall be paid for by such person in advance. Any intoxicated person may voluntarily come to a detoxification center for medical attention. The medical officer in charge of a detoxification center shall have the authority to determine whether a person shall be admitted to such center as a patient, or whether he should be referred to another health facility. The medical officer in charge of such center shall have the authority to require any person admitted as a patient under this subsection to remain at such center until he is sober and no longer incapacitated, but in any event no longer than 72 hours after his admission as a patient. If the medical officer concludes that such person should receive treatment at a different facility, he shall arrange for such treatment and for transportation to that facility. A detoxification center may provide medical services to a person who is not admitted as a patient. A patient in a detoxification center shall be encouraged to consent to an intensive diagnosis for alcoholism and to treatment at the inpatient and outpatient facilities authorized in section 24-523(a).

(b) (1) Any person who is taken into custody for violating section 25-128 shall be brought to a detoxification center where he shall either be admitted as a patient or transported by the Commissioner to another appropriate medical facility for treatment. The police officer who took such person into custody for violating such section shall leave a violation notice for such person with the medical officer in charge of the detoxification center. After such person is sober and no longer incapacitated, the medical officer in charge of the detoxification center shall detain him as long as is reasonably necessary to conduct a diagnosis for alcoholism. If such person is diagnosed as a chronic alcoholic the medical officer shall, after a review of such person's record, recommend to the Corporation Counsel whether a criminal charge should be filed against such person for violating such section in order to institute civil commitment proceedings under section 24-527. If such a criminal charge is not filed, no entry relating to such person's arrest for violating such section shall be made on any arrest or other criminal record. If the Corporation Counsel concludes that a criminal charge should be filed, the medical officer in charge of the detoxification center shall deliver to such person the violation notice that had been left with him. If such person is not diagnosed as a chronic alcoholic the medical officer in charge of the detoxification center shall deliver to him the violation notice that had been left with the medical officer and such person shall, after he is released by the center, be handled as in any other criminal case.

(2) Any person who is taken into custody in the District of Columbia for violating any criminal provision applicable in the District of Columbia (other than such section 25-128) and who appears to be intoxicated may be taken by the police to a detoxi-

fication center where he may be admitted as a patient for an immediate medical evaluation of his condition. As soon as it is determined that he is not in medical danger he shall be handled by the police as in any other criminal case. If his health is in danger, he may be detained either at the detoxification center or at some other appropriate medical facility until the danger has passed, and he shall then be handled as in any other criminal case. Such security conditions shall be maintained as are commensurate with the seriousness of the offense. In appropriate cases where there is no danger to the safety of any person, the police may leave with the medical officer in charge of the detoxification center a violation notice which shall be delivered to such person when he is released from the detoxification center.

(c) The registration and other records of a detoxification center shall remain confidential, and may be disclosed only to medical personnel for purposes of diagnosis, treatment, and court testimony, to police personnel for purposes of investigation of criminal offenses and complaints against police action, and to authorized personnel for purposes of presentence reports.

(d) The Commissioner shall promptly develop, in cooperation with the police, procedures for taking or sending an intoxicated person to a detoxification center, his residence, or a public or private health facility if no criminal charge is brought against such person. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 4; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 619.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 4, as above set out. Former section 4 of the act of Aug. 4, 1967, was classified to section 24-504, set out in the 1967 edition of the code and contained provisions relating to suspension of criminal proceeding in the case of chronic alcoholics after hearing and commitment to the clinic. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4-143, 25-128.

§ 24-525. Voluntary admission to inpatient centers—Medical officer in charge to determine who shall be admitted as a patient—Program for patients who are not chronic alcoholics—Involuntary detention not permitted, except by Court order.

(a) Any person may voluntarily request admission to the inpatient center authorized in section 24-523 (a), and no person committed under section 24-527 shall take precedence for purposes of admission over a person who voluntarily requests admission unless the person so committed is found by the Court to endanger the public safety. The medical officer in charge of the inpatient center is authorized to determine who shall be admitted as a patient. A complete medical, social, occupational, and family history shall be obtained as part of the diagnosis and classification at the inpatient center, and an effort shall also be made to obtain copies of all pertinent records from other agencies, institutions, and medical facilities in order to develop a complete and permanent history on each patient.

(b) A program shall be developed for patients of the inpatient center who are diagnosed not to be chronic alcoholics which program shall be designed to inform them of the dangers of alcoholism.

(c) In the case of a patient of the inpatient center who is diagnosed as a chronic alcoholic, he shall be given immediate, intensive treatment for chronic alcoholism at the inpatient center.

(d) No patient may be detained at the inpatient center without his consent, except under an order of the Court issued under section 24-527. Reasonable regulations for checking out of the inpatient center and for providing transportation may be adopted. If a patient checks out of the center against medical advice, he may be readmitted at the discretion of the medical officer in charge of the center. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 5, Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 620.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 5, as above set out. Former section 5 of the act of Aug. 4, 1947 was classified to section 24-505, set out in the 1967 edition of the code and contained provisions relating to establishment of a classification and diagnostic center and provisions for classification and diagnosis of persons committed to the clinic. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-526. Outpatient treatment of chronic alcoholics—

Medical director to determine who shall be admitted for outpatient treatment—Care of chronic alcoholics for whom recovery is unlikely—Compulsory participation not permitted, except by Court order.

(a) A chronic alcoholic shall be encouraged to consent to outpatient and aftercare treatment for his illness at the types of facilities authorized in section 24-523(a). Any person may voluntarily request admission to outpatient treatment. The medical officer in charge of the outpatient treatment is authorized to determine who shall be admitted to such treatment. There shall be one central outpatient treatment office which shall coordinate the operation of all outpatient facilities, and particularly shall be responsible for locating residential facilities for indigent intoxicated persons and alcoholics.

(b) For chronic alcoholics for whom recovery is unlikely, supporting services and residential facilities shall be provided.

(c) The Commissioner shall be responsible, through the outpatient treatment programs, for coordinating all public and private community efforts, including welfare services, vocational rehabilitation, and job placement, to integrate chronic alcoholics back into society as productive citizens.

(d) No person shall be required to participate in outpatient treatment without his consent unless required under an order of the Court issued under section 24-527. Reasonable requirements may be placed upon such a person as conditions for his participation in such treatment. If a patient withdraws from outpatient treatment against medical advice, he may be readmitted at the discretion of the medical officer in charge of outpatient treatment. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 6; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 621.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 6, as above set out. Former section 6, of the act of Aug. 4, 1947 was classified to section 24-506, set out in the 1967 edition of the code and contained provisions relating to recommendations by the director to the committing judge for dealing with committed persons, issuance of orders by the court and providing for the designation by the Attorney General of the United States of the director as his authorized representative. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-527. Commitment of chronic alcoholics by Court order for treatment—Hearing and findings required before commitment—Writ of habeas corpus—Right to counsel—Term of commitment.

(a) The Court may, on a petition of the Corporation Counsel on behalf of the Commissioner, filed and heard before the period of detention for detoxification and diagnosis expires, order a person to be committed to the custody of the Commissioner for inpatient treatment and care if (1) the Court determines that the person is a chronic alcoholic and that as a result of chronic or acute intoxication such person is in immediate danger of substantial physical harm, and (2) such person received notice of the filing of such petition within a reasonable time before the hearing held by the Court. The period of such commitment, computed from the date of admission to a detoxification center, shall not exceed (1) 30 days in the case of the first or second such commitment within any 24-month period, or (2) 90 days in the case of the third or subsequent such commitment within any 24-month period.

(b) (1) The Court may, after making the findings prescribed in paragraph (2) of this subsection, commit to the custody of the Commissioner for treatment and care for up to a specified period of time a chronic alcoholic who—

(A) is charged with any misdemeanor and who, prior to trial for such misdemeanor, voluntarily requests such treatment in lieu of criminal prosecution for such misdemeanor;

(B) is charged with a violation of section 25-128 and is acquitted on the ground of chronic alcoholism; or

(C) is convicted of a violation of such section 25-128.

The term of commitment of a chronic alcoholic ordered by the Court under this subsection may not exceed the maximum term of imprisonment authorized for the misdemeanor for which the chronic alcoholic was charged.

(2) Before any person may be committed under this subsection, the Court shall, after a medical diagnosis and a civil hearing, find that—

(A) the person is a chronic alcoholic;

(B) adequate and appropriate treatment provided by the Commissioner is available for the person; and

(C) in the case of a person described in subparagraph (C) of paragraph (1) of this subsection, he constitutes a continuing danger to the safety of himself or of other persons.

The Court shall give reasonable notice of such hearing to the person sought to be committed and his attorney. In the case of a person described in subparagraph (C) of paragraph (1) of this subsection, if the Court does not make the finding described in subparagraph (B) of this paragraph, the Court may sentence the person to a penal institution pending the availability of such treatment, but for a period not to exceed the maximum term of imprisonment authorized for a violation of such section 25-128.

(c) A committed person may challenge by a petition for a writ of habeas corpus the applicability of such findings, except that no more than one such petition may be filed in any six-month period. The limitation prescribed in the preceding sentence shall not apply in the case of petitions based on newly discovered evidence.

(d) The Commissioner may transfer a committed person who has been adjudged a continuing danger to the safety of himself or of other persons from inpatient to outpatient status only with permission of the Court. The Commissioner may transfer any other committed person from inpatient to outpatient status, and any committed person from outpatient to inpatient status, without permission of the Court, but may not release a committed person without permission of the Court.

(e) If any person subject to a commitment proceeding initiated under this section does not have an attorney and cannot afford one, the Court shall appoint one to represent him. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 7; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 621.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 7, as above set. Former section 7 of the act of Aug. 4, 1947 was classified to section 24-507, set out in the 1967 edition of the code and contained provisions relating to discharge of alcoholics at expiration of term of commitment and recommitment for further treatment after hearing on recommendation of the director. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-524, 24-525, 24-526, 24-534.

§ 24-528. Applicability of chapter to chronic alcoholics who have not been determined to be mentally ill.

The provisions of this chapter shall apply to chronic alcoholics who have not been determined to be mentally ill. The handling of a chronic alcoholic who has been determined to be mentally ill shall be governed by the provisions of chapter 5 of title 21 of the District of Columbia Code. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 8; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 622.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 8, as above set out. Former section 8 of the act of Aug. 4, 1947 was classified to section 24-508, set out in the 1967 edition of the code and contained provisions for supervision of the alcoholic permitted to remain at liberty or on conditional release. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-529. Commissioner may contract with appropriate public or private organizations to carry out purposes of this chapter.

The Commissioner may contract with any appropriate public or private agency, organization, or institution that has proper and adequate treatment facilities, programs, and personnel, in order to carry out the purposes of this chapter. (Aug. 4, 1947, 61 Stat. 745, ch. 472, § 9; Aug. 3, 1968 Pub. L. 90-452, § 3(a), 82 Stat. 622.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 9, as above set out. Former section 9 of the act of Aug. 4, 1947, was classified to section 24-509, set out in the 1967 edition of the code and provided for certification of the adequacy of the facilities, to the court by the Commissioners, prior to commitment therein of alcoholics. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-530. Programs for the prevention and treatment of alcoholism and rehabilitation of alcoholics among District employees and in private industry.

(a) The Commissioner shall be responsible for developing and maintaining, in cooperation with other District of Columbia agencies and departments, programs for the prevention and treatment of alcoholism and the rehabilitation of alcoholics among District of Columbia employees consistent with the intent of this chapter.

(b) The Commissioner shall also be responsible for fostering alcoholism rehabilitation programs in private industry in the District of Columbia. (Aug. 4, 1947, 61 Stat. 746, ch. 472, § 10; Aug. 3, 1968, Pub. L. 90-452, § 3(a) 82 Stat. 622.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 10, as above set out. Former section 10 of the act of Aug. 4, 1947, was classified to section 24-510, set out in the 1967 edition of the code and dealt with voluntary submissions for treatment, payment of costs, adoption of rules and regulations by Commissioners, nonforfeiture of rights of citizenship and confidentiality of records. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-531. Program for the prevention and treatment of alcoholism and rehabilitation of alcoholics in correctional institutions.

The Commissioner shall be responsible for establishing and maintaining a program for the prevention and treatment of alcoholism and the rehabilitation of alcoholics in correctional institutions in the District of Columbia. (Aug. 4, 1947, 61 Stat. 746, ch. 472, § 11; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 622.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 11, as above set out. Former section 11, of the act of Aug. 4, 1947, was classified to section 24-511, set out in the 1967 edition of the code and contained provisions authorizing the Commissioners to contract with other agencies to provide facilities for treatment of alcoholics. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-532. Program for the prevention of alcoholism and the treatment and rehabilitation of incipient alcoholics among juveniles and young adults.

The Commissioner shall be responsible for establishing and maintaining, in cooperation with the schools, the police, the courts, and other public agencies in the District of Columbia, an effective program for the prevention of intemperance and alcoholism, and the treatment and rehabilitation of incipient alcoholics, among juveniles and young adults. (Aug. 4, 1947, 61 Stat. 746, ch. 472, § 12; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 622.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 12, as above set out. Former section 12, of the act of Aug. 4, 1947, was classified to section 24-512, set out in the 1967 edition of the code and contained provisions authorizing the Commissioners to appoint a director of the clinic and other personnel. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-533. Evaluation of programs for treatment of chronic alcoholics—Recommendations to Congress by Commissioner—Publication of data and statistics—Implementation of objectives of this chapter—Use of Federal funds, programs and facilities.

(a) The Commissioner shall maintain a continuing evaluation of his programs and shall conduct pilot and demonstration projects to improve his programs, shall from time to time submit to the Congress such recommendations for programs for the District of Columbia to further the rehabilitation of chronic alcoholics, prevent the excessive and abusive use of alcoholic beverages, and promote moderation in the use of such beverages.

(b) The Commissioner shall prepare and publish materials, data, information, and statistics that relate to the problems of intoxication and alcoholism in the District of Columbia and that may be used in a program of public education directed toward the prevention of the excessive and abusive use of alcoholic beverages.

(c) The Commissioner shall develop a comprehensive plan to implement the objectives and policies of this chapter, and in so doing shall consult and collaborate with appropriate public and private agencies, institutions, and organizations in the District of Columbia, and with the Secretary of Health, Education, and Welfare. In developing such plan, the Commissioner shall make every effort to utilize funds, programs, and facilities authorized under Federal legislation. (Aug. 4, 1947, 61 Stat. 746, ch. 472, § 13; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 623.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 13, as above set out. Former section 13, of the act of Aug. 4, 1947, was classified to section 24-513, set out in the 1967 edition of the code and provided that the director submit, from time to time, to the Commissioners, his recommendations for furthering the rehabilitation of chronic alcoholics and requiring him to gather and publish data in relation thereto. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-534. Liability for cost of treatment—Procedures for determining liability and ability to pay—Waiver of liability, by Commissioner, in certain cases—Actions to recover cost of treatment—Deposit into United States Treasury of sums collected.

(a) (1) Except as otherwise provided in paragraph (2), if a person receives care, treatment, or any other services under this chapter—

(A) such person (or his estate), and

(B) such person's father, mother, spouse, or adult children,

shall be liable (each according to his ability, as determined by the Commissioner, and in the order listed above) to reimburse the District of Columbia, for all or such part of the actual cost of providing such services, as the Commissioner may require. The liability of any person described in subparagraph (B) of this paragraph shall be determined by the Commissioner after notice to such person that services have been or will be rendered under this chapter and the Commissioner has found that such person is able to reimburse the District of Columbia for all or a part of the cost of providing such services. Such person may not be held liable for the cost of any services rendered more than ninety days prior to the date of issue of such notice. The Commissioner shall determine the ability of the person who received services under this chapter (or his estate) or his father, mother, spouse, or adult children, as the case may be, to reimburse the District of Columbia, by an examination conducted under oath. In any one case the Commissioner may conduct as many examinations as he determines are necessary to ascertain the ability of such person (or his estate) or his relatives to so reimburse the District of Columbia. In the case of a person committed under section 24-527(a), the Commissioner may conduct such examination at any time after a petition for such person's commitment is filed under such section; and in the case of a person committed under section 24-527(b), such examination may be conducted by the Commissioner at any time after the court serves notice of the hearing to be conducted under paragraph (2) of such section. In all other cases the Commissioner may conduct an examination at any time.

(2) Any person described in subparagraph (B) of paragraph (1) who is liable to the District of Columbia under this section may apply to the Commissioner to have such liability waived. The Commissioner may waive such liability if he determines that it would be unreasonable to impose such liability because of the desertion or neglect of such person by the recipient of services under this chapter or because of other factors similarly affecting the relationship between such person and such recipient. The Commissioner shall prescribe procedures for the filing and hearing of such application under this paragraph.

(b) The Commissioner may bring an action against a person made liable under subsection (a) for all or any part of the cost of services provided under this chapter to require such person to satisfy such liability. In such an action the court may issue an order requiring any such person who is a party to such action to satisfy such liability in accordance

with such terms as the court may prescribe. Such order may be enforced in the same manner as orders for alimony.

(c) Sums collected by the Commissioner under this section shall be deposited in the Treasury of the United States to the credit of the District of Columbia. (Aug. 4, 1947, ch. 472, § 14; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 623.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 14, as above set out. Former section 14 of the act of Aug. 4, 1967, was classified to section 25-111a and has been renumbered as section 16 by section 3(b) of the act of Aug. 3, 1968. This former section 14, now section 16 dealt with appropriation of a portion of license fees derived from alcoholic beverages. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

§ 24-535. Donations of services and gifts—Deposit of gifts in a trust fund account in the Treasury of the United States—Use of gifts, by Commissioner, to carry out purposes of this chapter.

The Commissioner may accept on behalf of the District of Columbia donations of services or gifts of real or personal property, tangible or intangible, which are made for the purpose of carrying out his functions under this chapter. Gifts of money and the proceeds from the liquidation of any other gift shall be deposited in the Treasury of the United States to the credit of a trust fund account, which is hereby authorized, and may be invested and reinvested as trust funds of the District of Columbia. The Commissioner shall use such donations and gifts to carry out the purposes of this chapter. (Aug. 4, 1947, ch. 472, § 15; Aug. 3, 1968, Pub. L. 90-452, § 3(a), 82 Stat. 624.)

AMENDMENT

1968—Section 3(a) of the act of Aug. 3, 1968, inserted a new section 15, as above set out. Former section 15 of the act of Aug. 4, 1967, which was classified to section 24-514 was repealed by section 3(c) of the act of Aug. 3, 1968. This former section dealt with the appointment of an advisory committee by the commissioners. See amendment note under section 24-521.

EFFECTIVE DATE OF AMENDMENT

See note under section 24-521.

Chapter 6.—REHABILITATION OF USERS OF NARCOTICS

§ 24-601. Purpose.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-602, 24-604, 24-607, 24-609 to 24-611, 24-614.

§ 24-602. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-604, 24-607, 24-609 to 24-611, 24-614.

§ 24-603. Order of examination.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-605, 24-607, 24-609 to 24-611, 24-614.

§ 24-604. Right to counsel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-607, 24-609 to 24-611, 24-614.

§ 24-605. Examination by physicians.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601 to 24-604, 24-606, 24-607, 24-609 to 24-611, 24-614.

§ 24-606. When hearing is required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-607, 24-609 to 24-611, 24-614.

§ 24-607. Hearing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-609 to 24-611, 24-614.

§ 24-608. Confinement of patient.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-607, 24-609 to 24-611, 24-614.

§ 24-609. Release of patient.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-607, 24-608, 24-610, 24-611, 24-614.

§ 24-610. Periodic examination of released patients.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-607, 24-609, 24-611, 24-614.

§ 24-611. Patient not deemed a criminal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-601, 24-602, 24-604, 24-607, 24-609, 24-610, 24-614.

§ 24-613. Care and treatment of drug users—Authority of the Surgeon General.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24-615.

§ 24-614. Admittance into Public Health Service hospitals—Narcotics users from District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-613, 24-615.

PART V

GENERAL STATUTES

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| <p>TITLE 25—ALCOHOLIC BEVERAGES.</p> <p>TITLE 26—BANKS AND OTHER FINANCIAL INSTITUTIONS.</p> <p>TITLE 27—CEMETERIES AND CREMATORIES.</p> <p>TITLE 28—COMMERCIAL INSTRUMENTS AND TRANSACTIONS.</p> <p>TITLE 29—CORPORATIONS.</p> <p>TITLE 30—DOMESTIC RELATIONS.</p> <p>TITLE 31—EDUCATION AND CULTURAL INSTITUTIONS.</p> <p>TITLE 32—ELEEMOSYNARY, CURATIVE, CORRECTIONAL, AND PENAL INSTITUTIONS.</p> <p>TITLE 33—FOOD AND DRUGS.</p> <p>TITLE 34—HOTELS AND LODGING-HOUSES.</p> <p>TITLE 35—INSURANCE.</p> <p>TITLE 36—LABOR.</p> | <p>TITLE 37—LIBRARIES.</p> <p>TITLE 38—LIENS.</p> <p>TITLE 39—MILITARY.</p> <p>TITLE 40—MOTOR VEHICLES.</p> <p>TITLE 41—PARTNERSHIPS.</p> <p>TITLE 42—PERSONAL PROPERTY.</p> <p>TITLE 43—PUBLIC UTILITIES.</p> <p>TITLE 44—RAILROADS AND OTHER CARRIERS.</p> <p>TITLE 45—REAL PROPERTY.</p> <p>TITLE 46—SOCIAL SECURITY.</p> <p>TITLE 47—TAXATION AND FISCAL AFFAIRS.</p> <p>TITLE 48—TRADE-MARKS AND TRADE NAMES.</p> <p>TITLE 49—COMPILATION AND CONSTRUCTION OF CODE.</p> |
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TITLE 25.—ALCOHOLIC BEVERAGES

Chapter 1.—ALCOHOLIC BEVERAGE CONTROL

§ 25-103. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Review

The question of an association's standing to obtain judicial review of a claim that Alcoholic Beverage Control Board improperly reissued retail liquor license depended primarily upon existence of logical and adequately direct nexus between association's interest and adverse action of opposing party or parties. *The Citizens Association of Georgetown v. J. E. Simonson et al.* (1968, 403 F. 2d 175, 131 U.S. App. D.C. 152).

In directing Alcoholic Beverage Control Board to consider wishes of persons residing or owning property in neighborhood in issuing licenses, Congress recognized that operation of liquor establishment may trouble its neighbors. *Id.*

Residents and owners of property within neighborhood of licensed establishment have required nexus to seek judicial review of reissuance of license. *Id.*

An association which was the authorized spokesman organized to promote interest of its individual members, many of whom resided or owned property within neighborhood of licensed liquor establishment, had standing to seek judicial review of reissuance of license. *Id.*

§ 25-104. Alcoholic Beverage Control Board—Appointment—Term—Employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 25-106. Jurisdiction of Board over licenses—Appeal from revocation—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(214) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section as provided in the last sentence of the section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 25-107. Powers of Commissioners—Rules and regulations—Licenses.

* * * * *

The District of Columbia Council shall have authority to make rules and regulations for the issuance, transfer, and revocation of licenses; to facilitate and insure the collection of taxes; to govern the operation of the business of licensees, with full power and authority to prescribe the terms and conditions

under which alcoholic beverages may be sold by each class of licensees; to forbid the issuance of licenses for manufacture, sale, or storage of alcoholic beverages in such localities in, and such sections and portions of, the District of Columbia as the Council may deem proper in the public interest; to limit the number of licenses of each class to be issued in the District of Columbia and to limit the number of licenses of each class in any locality in, or sections or portions of, the District of Columbia as the Council may deem proper in the public interest; to forbid the issuance of licenses for businesses conducted on such premises as the Council, in the public interest, may deem inappropriate; to forbid the issuance of any class or classes of licenses for businesses established subsequent to January 24, 1934 near or around schools, colleges, universities, churches, or public institutions; to prescribe the hours during which alcoholic beverages may be sold; and to prohibit the sale of any or all alcoholic beverages on such days as the Council determines necessary in the public interest.

* * * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title IV, § 403, 82 Stat. 616.)

AMENDMENTS

1968—Section 403, Pub. L. 90-450, amended the first sentence of the second paragraph to read as above set out. The amendment transferred the authority to make rules and regulations to the District Council, eliminated the provisions relating to the sale of beverages on Sundays, and gave the Council the authority “to prohibit the sale of any or all alcoholic beverages on such days as the Council determines necessary in the public interest.”

SHORT TITLE

The enacting clause of act Aug. 2, 1968, Pub. L. 90-450, provided: That this act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the “District of Columbia Revenue Act of 1968.”

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(215) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing, making, altering, and amending rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 25-109. Sale without license prohibited—Exceptions.

NOTES TO DECISIONS

Consecutive sentences

Imposition of consecutive 120-day sentences for the keeping of whiskey for sale and selling of whiskey without a license was improper as constituting double punishment for a single offense where defendant had only a single bottle of whiskey which he illegally sold at time of

his arrest and there was no proof of a keeping of the whiskey for sale independent of the sale itself. *W. Hicks v. District of Columbia* (D.C. App. 1967, 234 A. 2d 801).

Several offenses committed by single act

Usual test to determine if one or two offenses have been committed by a single act is whether each offense requires proof of an additional fact which the other does not. *W. Hicks v. District of Columbia* (D.C. App. 1967, 234 A. 2d 801).

§ 25-111. License classifications—Fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(216) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-107, 25-109, 25-111a, 25-115, 25-121, 25-128.

NOTES TO DECISIONS

Review

The question of an association’s standing to obtain judicial review of a claim that Alcoholic Beverage Control Board improperly reissued retail liquor license depended primarily upon existence of logical and adequately direct nexus between association’s interest and adverse action of opposing party or parties. *The Citizens Association of Georgetown v. J. E. Simonson et al.* (1968, 403 F. 2d 175, 131 U.S. App. D.C. 152).

In directing Alcoholic Beverage Control Board to consider wishes of persons residing or owning property in neighborhood in issuing licenses, Congress recognized that operation of liquor establishment may trouble its neighbors. *Id.*

Residents and owners of property within neighborhood of licensed establishment have required nexus to seek judicial review of reissuance of license. *Id.*

An association which was the authorized spokesman organized to promote interest of its individual members, many of whom resided or owned property within neighborhood of licensed liquor establishment, had standing to seek judicial review of reissuance of license. *Id.*

§ 25-111a. Appropriation of portion of license fees for rehabilitation of alcoholics.

Six per centum of the annual fees for licenses for the manufacture or sale of alcoholic beverages, except for retailer’s license, class E, imposed by section 25-111, is hereby permanently appropriated to carry out the purposes of chapter 5 of Title 24. (Aug. 4, 1947, 61 Stat. 746, ch. 472, § 16; May 27, 1949, 63 Stat. 135, ch. 146, title V, § 504; Aug. 3, 1968, Pub. L. 90-452, § 3(b), 82 Stat. 624.)

AMENDMENT

1968—Section 3(b), act Aug. 3, 1968, Pub. L. 90-452, amended section by striking “sec. 14” and inserting in lieu thereof “sec. 16”.

EFFECTIVE DATE OF AMENDMENT

Section 4 of the act of Aug. 3, 1968, Pub. L. 90-452, provided: “The amendments made by section 3 of this

act [classified to sections 24-521 to 24-535, repealing section 24-514, and renumbering this section from 14 to 16] shall take effect on the ninetieth day following the date of its enactment." [Aug. 3, 1968.]

SHORT TITLE

Section 1, act Aug. 3, 1968, Pub. L. 90-452, provided: That this Act [amending sections 4-143, 25-128, renumbering section 14 of the Act of Aug. 4, 1947, ch. 472, as section 16, classified as section 25-111a, repealing section 24-514, striking out sections 1 to 13 of the Act of Aug. 4, 1947 and inserting new sections 1 to 15, classified as sections 24-521 to 24-535] may be cited as the "District of Columbia Alcoholic Rehabilitation Act of 1967".

§ 25-112. Authority of Commissioners to forbid transportation of liquor into District—Permit may be granted.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(217) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 25-115. Applications for licenses—Qualification of applicants—Moral character—Citizenship—Prior convictions—Ownership—Interest of manufacturer in retail business—Character of premises—Advertising application—Hearing of protests—Objection of property owners—Removal of bonded liquor from Government warehouses—Penalty.

(a) Any individual, partnership, or corporation desiring a license under this chapter shall file with the Board an application in such form as the Commissioners may prescribe, and such application shall contain such additional information as the Board may require, and (except in the case of an application for a manufacturer's license, retailers license, class E, or solicitor's license) shall contain a statement setting forth the name and address of the true and actual owner of the premises upon which the business to be licensed is to be conducted. Before a license is issued the Board shall satisfy itself:

1. That the applicant, if an individual, or, if a partnership, each of the members of the partnership, or, if a corporation, each of its principal officers and directors, is of good moral character and generally fit for the trust to be in him reposed.

2. That the applicant, if an individual, or, if a partnership, each of the members of the partnership, or, if a corporation, each of its principal officers, is not less than twenty-one years of age, and has not, within five years prior to the filing of such application, been convicted of a misdemeanor under the National Prohibition Act, as amended and supplemented, or, within ten years prior to such filing, been convicted of any felony.

3. That (A) each individual, each member of a partnership, and each principal officer of a corporation (other than a club) is a citizen of the United States, and (B) a majority of the principal officers of a club are citizens of the United States.

4. Except in the case of an application for a solicitor's license, that the applicant is the true and actual owner of the business for which the license is desired, and that he intends to carry on the business authorized by the license for himself and not as the agent of any individual, partnership, association, or corporation, and that he intends to super-

intend in person the management of the business licensed, or intends to have some other person, to be approved by the Board, manage the business for him, which said manager must possess all of the qualifications required of a licensee hereunder.

5. That in the case of an applicant for a wholesaler's license or a retailer's license (except a retailer's license class E), no manufacturer or wholesaler of beverages other than the applicant (including a stockholder holding 25 per centum or more of the common stock, or an officer of any manufacturer or wholesaler of beverages, if such manufacturer or wholesaler is a corporation), has such a substantial interest, direct or indirect, in the business for which the license is requested, or in the premises in respect of which such license is to be issued, as in the judgment of the Board may tend to influence such licensee to purchase beverages from such manufacturer or wholesaler, and that such business will not be conducted with any money, equipment, furniture, fixtures, or property rented from or loaned or given by any such manufacturer or wholesaler (including such stockholder or officer) or sold by such manufacturer or wholesaler (including such stockholder or officer) to any such licensee for less than the fair market value or upon a conditional sale agreement or chattel trust.

6. That the place for which the license is to be issued is an appropriate one considering the character of the premises, its surroundings, and the wishes of the persons residing or owning property in the neighborhood of the premises for which the license is desired.

* * * * *

(As amended, Aug. 2, 1968, Pub. L. 90-450, title IV, § 404, 82 Stat. 616.)

AMENDMENTS

1968—Section 404, Pub. L. 90-450, amended subsection (a) by: (a) striking out in paragraph 2 "a citizen of the United States," (b) adding immediately after paragraph 2 a new paragraph 3 as above set out, and (c) redesignating former paragraphs 3, 4, and 5, as paragraphs 4, 5 and 6.

SHORT TITLE

The enacting clause of act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(218) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) relating to the promulgation of regulations to permit owners of warehouse receipts to withdraw bonded liquors, to the District of Columbia Council, subject to the

right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

NOTES TO DECISIONS

Review

The question of an association's standing to obtain judicial review of a claim that Alcoholic Beverage Control Board improperly reissued retail liquor license depended primarily upon existence of logical and adequately direct nexus between association's interest and adverse action of opposing party or parties. *The Citizens Association of Georgetown v. J. E. Simonson et al.* (1968, 403 F. 2d 175, 131 U.S. App. D.C. 152).

In directing Alcoholic Beverage Control Board to consider wishes of persons residing or owning property in neighborhood in issuing licenses, Congress recognized that operation of liquor establishment may trouble its neighbors. *Id.*

Residents and owners of property within neighborhood of licensed establishment have required nexus to seek judicial review of reissuance of license. *Id.*

An association which was the authorized spokesman organized to promote interest of its individual members, many of whom resided or owned property within neighborhood of licensed liquor establishment, had standing to seek judicial review of reissuance of license. *Id.*

§ 25-118. Revocation of license—Causes—Hearing—Discretionary closing for one year.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Grounds for suspension

Fourteen-day suspension of liquor license was warranted where licensee permitted "B-girl" operation on its premises and female employee made solicitation for act of prostitution on premises. *Am-Chi Restaurant, Inc. v. J. R. Simonson et al., etc.* (1968, 396 F. 2d 686, 130 U.S. App. D.C. 37).

Mere fact that "B-girl" operation was not illegal per se on licensed premises was not defense by licensee in proceeding to suspend license on ground that female employee of licensee had made solicitation for prostitution on premises. *Id.*

Standards for suspension

Alcoholic Beverage Control Board should articulate its standards for suspension of liquor licenses in its order of suspension. *Am-Chi Restaurant Inc. v. J. R. Simonson et al., etc.* (1968, 396 F. 2d 686, 130 U.S. App. D.C. 37).

§ 25-119. Revocation of license when manufacturer interested—Manufacturer forbidden to loan money or furnish equipment for wholesaler or retailer—Extending credit permitted—"Manufacturer" defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 25-120. Revocation of license when wholesaler interested—Wholesaler forbidden to loan money or furnish equipment to retailer—Extending credit not prohibited—"Wholesaler" defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 25-123. Monthly reports of sales and purchases.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(219) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 25-124. Beverage taxes—Method of collection—Class C or D licensees—Reports.

(a) There shall be levied, collected, and paid on all of the following-named beverages manufactured by a holder of a manufacturer's license and on all of the said beverages imported or brought into the District by a holder of a wholesaler's license, except beverages as may be sold to a dealer licensed under the laws of any State or Territory of the United States and not licensed under this chapter, and on all beverages imported or brought into the District by a holder of a retailer's license, a tax at the following rates to be paid by the licensee in the manner hereinafter provided: (1) a tax of 15 cents on every wine-gallon of wine containing 14 per centum or less of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (2) a tax of 33 cents on every wine-gallon of wine containing more than 14 per centum of alcohol by volume, other than champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (3) a tax of 45 cents on every wine-gallon of champagne, sparkling wine, and any wine artificially carbonated, and a proportionate tax at a like rate on all fractional parts of such gallon; (4) a tax of \$2.00 on every wine-gallon of spirits and a proportionate tax at a like rate on all fractional parts of such gallon; (5) and a tax of

\$2.00 on every wine-gallon of alcohol and a proportionate tax at a like rate on all fractional parts of such gallon.

* * * * *

(c) Said taxes shall be collected and paid in the following manner:

(1) Each holder of a manufacturer's or wholesaler's license shall, on or before the fifteenth day of each month, furnish to the Commissioners or their designated agent on a form to be prescribed by the Commissioners, a statement under oath showing the quantity of beverage subject to taxation hereunder sold by him during the preceding calendar month and shall, on or before the fifteenth day of each month, pay to the Commissioners or their designated agent the tax hereby imposed upon the quantity of beverages subject to taxation hereunder sold by him during the preceding calendar month.

* * * * *

(As amended Oct. 31, 1969, Pub. L. 91-106, title V, 501(a) (b), 83 Stat. 175.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, title V, § 501, amended subsection (a) clauses (4) and (5) by changing \$1.75 to \$2.00; amended subsection (c) (1) by striking "tenth" and inserting "fifteenth".

EFFECTIVE DATE OF 1969 AMENDMENTS; APPLICABILITY TO STOCK HELD PRIOR TO EFFECTIVE DATE; STATEMENTS; RECORDS OF INVENTORIES; PUNISHMENT FOR VIOLATIONS

"SEC. 502. (a) Except as otherwise provided in this title, (section 501 and this section of Pub. L. 91-106) the amendments made by section 501 (this section and 25-138) shall apply with respect to—

"(1) alcohol, spirits, and wines imported or brought into the District of Columbia or manufactured, and

"(2) beer sold or purchased for resale, on and after the effective date of this title, which shall be the first day of the first month which begins on or after the thirtieth day after the date of the enactment of this Act. [Oct. 31, 1969]

"(b) In the case of alcohol, spirits, and beer which have been purchased prior to the effective date of this title and which on such date are held by a holder of a retailer's license, issued under the District of Columbia Alcoholic Beverage Control Act, such licensee shall pay to the Commissioner (in accordance with subsection (c)) an amount equal to the difference between the amount of tax imposed by such Act immediately prior to the effective date of this title on the amount of alcohol, spirits, and beer so held by him, and the amount of tax which would be imposed by the District of Columbia Alcoholic Beverage Control Act on such effective date on an equivalent amount of alcohol, spirits, and beer.

"(c) Within twenty days after the effective date of this title, each such licensee (1) shall file with the Commissioner a sworn statement (on a form to be prescribed by the Commissioner) showing the quantity of alcohol, spirits, and beer held by him as of the beginning of the day on which this title becomes effective or, if such day is a Sunday, as of the beginning of the following day, and (2) shall pay to the Commissioner the amount specified in subsection (b).

"(d) Each such licensee shall keep and preserve for the twelve-month period immediately following the effective date of this title the inventories and other records made which form the basis for the information furnished to the Commissioner on the sworn statement required to be filed under this section.

"(e) For purposes of this section, alcohol, spirits, and beer shall be considered as held by a holder of a retailer's license if title thereto has passed to such holder (whether

or not delivery to him has been made) and if title has not at any time been transferred to any person other than such holder.

"(f) A violation of the provisions of subsection (b), (c), or (d) of this section shall be punishable as provided in section 33 of the District of Columbia Alcoholic Beverage Control Act (D.C. Code, sec. 25-132)."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App. 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of Act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(220, 221 and 424) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (c) (3), (g) and section 1005 of the act of September 30, 1966, Pub. L. 98-610, set out as a note hereunder, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 25-123.

§ 25-128. Drinking of alcoholic beverage in street, alley, park, parking, or unlicensed public place forbidden—Intoxication in street, alley, park, or parking forbidden—Penalty.

(a) No person shall in the District of Columbia drink any alcoholic beverage in any street, alley, park, or parking; or in any vehicle in or upon the same; or in or upon any premises where food, non-alcoholic beverages, or entertainment are sold or provided for compensation not licensed under this chapter; or in any place to which the public is invited for which a license has not been issued hereunder permitting the sale and consumption of such alcoholic beverage upon such premises except premises licensed under section 25-111(l); or in any place to which the public is invited (for which a license under this chapter has been issued) at a time when the sale of such alcoholic beverages on the premises is prohibited by this chapter or by the regulations promulgated thereunder, or in any place for which a license under section 25-111(l) has been issued at a time when the consumption of such alcoholic beverages on the premises is prohibited by regulations promulgated under this chapter. No person in the District of Columbia, whether in or on public or private property, shall be intoxicated and endanger the safety of himself or of any other person or of property.

(b) Any person violating the provisions of subsection (a) of this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than ninety days, or both.

(c) Any person in the District of Columbia who is intoxicated in public and who is not conducting himself in such manner as to endanger the safety of himself or of any other person or of property, shall be dealt with in accordance with section 24-524. (Jan. 24, 1934, 48 Stat. 333, ch. 4, § 28; Aug. 27, 1935, 49 Stat. 901, 902, ch. 756, §§ 13, 14; June 29, 1953, 67 Stat. 104, ch. 159, § 404(h); Aug. 3, 1968, Pub. L. 90-452, § 2 (a), 82 Stat. 618.)

AMENDMENTS

1968—Section 2(a), act Aug. 3, 1968, Pub. L. 90-452, amended section as follows:

(1) Amended the second sentence of subsection (a) to read as above set out. This sentence prior to its amendment read: "No such person shall be drunk or intoxicated in any street, alley, park, or parking; or in any vehicle in or upon the same or in any place to which the public is invited, or at any public gathering and no person anywhere shall be drunk or intoxicated and disturb the peace of any person."

(2) Struck out "this section" in subsection (b) and inserted in lieu thereof "subsection (a) of this section" and

(3) Added subsection (c).

SHORT TITLE

Section 1, act Aug. 3, 1968, Pub. L. 90-452, provided: That this Act (amending sections 4-143, 25-128, renumbering section 14 of the Act of Aug. 4, 1947, ch. 472, as section 16, classified as section 25-111a, repealing section 24-514, striking out sections 1 to 13 of the Act of Aug. 4, 1947 and inserting new sections 1 to 15, classified as sections 24-521 to 24-535.) may be cited as the "District of Columbia Alcoholic Rehabilitation Act of 1967".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-524, 24-527.

NOTES TO DECISIONS

Evidence—Sufficiency

Evidence sustained conviction of assault, public intoxication and disorderly conduct in violation of District of Columbia Code. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Issue of fact

Whether a defendant, who was charged with assault, public intoxication and disorderly conduct in violation of District of Columbia Code, had mental disease which should have excused him from criminal responsibility was issue of ultimate fact for the trier thereof. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

Weight of evidence

Weight to be given testimony of witnesses who related that the conduct of the defendant at time of alleged assault, public intoxication and disorderly conduct, in violation of District of Columbia Code, and shortly thereafter was bizarre and the weight to be given testimony of government witness who related that the defendant was intoxicated at the time of alleged offenses and that assault was triggered by refusal to serve him beer was for the trier of fact. *W. M. Dempsey v. United States and District of Columbia* (D.C. App. 1969, 251 A. 2d 650).

§ 25-131. Issuance of new permits under Beverage License Act of 1933 forbidden—Surrender of permit and refund of fees—Repeal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 25-109.

§ 25-132. Penalty for violation where no specific penalty provided—Prosecutions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 25-108.

NOTES TO DECISIONS

Consecutive sentences

Imposition of consecutive 120-day sentences for the keeping of whiskey for sale and selling of whiskey without a license was improper as constituting double punishment for a single offense where defendant had only a single bottle of whiskey which he illegally sold at time of his arrest and there was no proof of keeping of the whiskey for sale independent of the sale itself. *W. Hicks v. District of Columbia* (D.C. App. 1967, 234 A. 2d 801).

Several offenses committed by single act

Usual test to determine if one or two offenses have been committed by a single act is whether each offense requires proof of an additional fact which the other does not. *W. Hicks v. District of Columbia* (D.C. App. 1967, 234 A. 2d 801).

§ 25-137. Unlawful transportation—Penalty.

* * * * *

(b) No public or common carrier shall transport or bring into the District of Columbia wine, spirits, or beer in a quantity in excess of one quart in any one calendar month for delivery to any one person in the District of Columbia other than the holder of

a manufacturer's, wholesaler's, or retailer's license issued under this chapter.

* * * * *

(As amended Dec. 26, 1967, Pub. L. 90-223, § 1, 81 Stat. 728.)

AMENDMENT

1967—Section 1, Act Dec. 26, 1967, Pub. L. 90-223, amended subsection (b) by striking out "one gallon at any one time" and inserting in lieu "one quart in any one calendar month".

§ 25-138. Tax on beer.

(a) There shall be levied and collected by the District of Columbia on all beer sold by the holder of a manufacturer's or wholesaler's license, except such beer as may have been purchased from a licensee under this chapter, and except such beer as may be sold to a dealer licensed under the laws of any State or Territory of the United States and not licensed under this chapter, and on all beer purchased for resale by the holder of a retailer's license, except such beer as may have been purchased from a licensee under this chapter, a tax of \$2.25 for every barrel containing not more than thirty-one gallons and at a like rate for any other quantity or for the fractional parts thereof. Unless the Commissioners shall by regulation prescribe otherwise, the collection and payment of such tax shall be in the manner following:

(1) Each holder of a manufacturer's or wholesaler's license shall, on or before the 15th day of each month, furnish to the assessor of the District of Columbia, on a form to be prescribed by the Commissioners, a statement under oath showing the quantity of beer subject to taxation hereunder sold by him during the preceding calendar month.

* * * * *

(As amended, Oct. 31, 1969, Pub. L. 91-106, title V, § 501(c), 83 Stat. 175.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 501(c) amended subsection (a) by striking out \$2 and inserting \$2.25; par. 1 of the same subsection was amended by striking "10th" and inserting "15th".

EFFECTIVE DATE OF 1969 AMENDMENTS ETC.

See note to section 25-124.

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority

vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App. 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of Act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of title 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(222) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section as to prescribing the manner of collection and payment of tax on beer, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

TITLE 26.—BANKS AND OTHER FINANCIAL INSTITUTIONS

Chapter 1.—BANKING INSTITUTIONS IN GENERAL

§ 26-101. Banking institutions to be under supervision of Comptroller of Currency—Sections 161, 163, and 164 of title 12, U.S. Code, applicable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-102, 26-104, 29-105.

§ 26-104. Liability of stockholders of bank or savings company—"Entered into or incurred" defined—Certain provisions of U.S. Code extended to District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-105.

Chapter 3.—TRUST, LOAN, MORTGAGE, SAFE DEPOSIT AND TITLE CORPORATIONS

§ 26-301. Purposes for which formed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-304, 26-309, 26-310, 26-313.

§ 26-302. Title insurance companies may become perpetual.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-101, 29-209, 29-211, 29-215, 29-223, 29-229, 29-233, 29-234, 29-236, 29-238 to 29-240.

§ 26-305. Commissioners of the District may grant or refuse charter.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(213) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 26-313. Existing companies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-307, 26-322.

§ 26-316. Capital stock—Deposit with comptroller required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-317.

§ 26-317. Shares, par value—Calls—Sale of stock upon failure to pay call.

NOTES TO DECISIONS

Late payment for subscribed stock

Where stock subscription had been accepted by organizers of national bank prior to bank's actual existence and after bank came into being it notified subscriber that payment for his shares was due on or before certain date, buyer who mailed check which was not received by bank until day after specified date forfeited his rights under subscription agreement. *S. J. Brown v. United Community National Bank* (1968, 282 F. Supp 781).

§ 26-318. Annual reports to comptroller.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-319.

§ 26-322. Liability of stockholders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-105.

§ 26-323. Stock to be paid up in money only—Exception—Companies doing business prior to January 1, 1902.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-313, 26-316.

§ 26-327. Directors or trustees liable for debts if dividends are declared whereby corporation is rendered insolvent or debt is created thereby.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-328.

Chapter 4.—BUILDING ASSOCIATIONS

§§ 26-401 to 26-404.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 26-103.

§ 26-405. Associations existing under laws of other States doing business in District of Columbia must comply—Provisions requisite—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-103, 26-404.

§§ 26-406 to 26-416.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 26-103.

Chapter 5.—CREDIT UNIONS

§§ 26-502 to 26-518.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-519, 26-521, 26-522.

§§ 26-519, 26-520.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 26-521.

§ 26-521. Converted credit union to be subject to provisions of Federal Credit Union Act—Fee not to be charged upon conversion—Liquidation of loans of converting union—New bylaws—Bylaws inconsistent with provisions of Federal Credit Union Act.

CROSS REFERENCES

Consumer credit cost disclosure, see title 15 U.S.C. § 1601 et seq.

Extortionate credit transactions, see title 18 U.S.C. § 891 et seq.

§ 26-522. Repeal of sections 26-501 to 26-518—Effective date.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 26-521.

Chapter 6.—MONEY LENDERS—LICENSES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 28:9-203.

§ 26-601. Loaning of money on security—Rate of interest—License—Appointment of resident agent—Service on removal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

NOTES TO DECISIONS

Commission as constituting usury

Commission paid by a borrower to a loan broker for obtaining a loan from a third person does not constitute usury. *J. Oliver v. United Mortgage Company, Inc., etc.* (D.C. App. 1967, 230 A. 2d 722).

Borrower was not entitled to recover portion of commission retained by loan broker for arranging loan on ground that transaction was usurious in absence of showing that broker was acting solely as agent of lender. *Id.*

Even if loan broker had advanced his own funds to borrower, but had done so for convenience only and with expectation of reimbursing himself promptly from funds supplied by lender, broker who had retained commission for that service was not liable to borrower for allegedly usurious interest on ground that broker was principal on loan. *Id.*

Lenders act may be illegal

Only the act of the lender and not the borrower may be illegal under this section. *I. Shulman v. M. Ritzenberg and L. N. Tauber* (1969, 47 F.R.D. 202).

§ 26-602. Application for license filed with Commissioners—Contents of application—Date and expiration of license—Notice of application posted and published—Protests—Hearings—Rejection of application.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

§ 26-603. Bond to accompany application—Sureties—Actions on bond—Copy of bond to be furnished upon request—Renewal of bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

§ 26-604. Register to be kept—Contents—Inspection of register—Annual statements.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

§ 26-605. Rate of interest—Interest to cover all fees and expenses—Not to be deducted in advance—Statement to be furnished borrower—Amount of loans—Penalties.

CROSS REFERENCES

Consumer credit cost disclosure, see title 15 U.S.C. § 1601 et seq.

Extortionate credit transactions, see title 18 U.S.C. § 891 et seq.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

NOTES TO DECISIONS

Commission as constituting usury

Commission paid by a borrower to a loan broker for obtaining a loan from a third person does not constitute usury. *J. Oliver v. United Mortgage Company, Inc., etc.* (D.C. App. 1967, 230 A. 2d 722).

Borrower was not entitled to recover portion of commission retained by loan broker for arranging loan on ground that transaction was usurious in absence of showing that broker was acting solely as agent of lender. *Id.*

Even if loan broker had advanced his own funds to borrower, but had done so for convenience only and with expectation of reimbursing himself promptly from funds supplied by lender, broker who had retained commission for that service was not liable to borrower for allegedly usurious interest on ground that broker was principal on loan. *Id.*

§ 26-606. Complaints—Hearings on Complaints—Record of hearings—Revoking of, or refusal to grant license.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

§ 26-607. Penalties—Enforcement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-606, 28-3303.

§§ 26-608, 26-609.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28-3303.

§ 26-610. Persons, associations, and corporations exempt from operation of this chapter.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

§ 26-611. Commissioners to enforce—Rules and regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-3303.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(224) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to making rules and regulations for the conduct of business of making loans and for the enforcement of chapter 6, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

TITLE 27.—CEMETERIES AND CREMATORIES

Chapter 1.—CEMETERY ASSOCIATIONS—REGULATORY PROVISIONS

Sec.

27-130. Establishment of crematory—Rules and regulations.

§ 27-101. Incorporation—Powers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106 to 27-108, 27-126, 27-128.

§§ 27-102 to 27-104.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-105. Duty to inclose and underdrain.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions of establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-106. Application of proceeds of sales of lots.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-107, 27-126, 27-128.

§ 27-107. Officers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-126, 27-128.

§§ 27-108 to 27-113.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-114. Distance from city and from dwellings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-114a, 27-126, 27-128.

§ 27-114a. Commissioners authorized to license certain lands for cemetery purposes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 27-115 to 27-117.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-119a. Disposal of dead bodies—Permits required—Movement and disposition of tissue by tissue banks—Violations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(225) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to regulations, authorizing tissue banks and others to remove etc., dead bodies of human beings without permit, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 27-120. Reports of death—Keeping of dead bodies—Exhibition of dead bodies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-121. Place of burial.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive powers vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§§ 27-122, 27-123.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-124. Crematories—Consent of property owners—Permit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-125. Permit to cremate—Embalming—Removal of tissue immediately after death.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-126. Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-119a, 27-128.

§ 27-127. Prosecutions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126, 27-128.

§ 27-128. Disinterment by order of the court.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 27-106, 27-107, 27-126.

§ 27-129. Public crematory—Cremation required in certain cases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 27-131.

§ 27-130. Establishment of crematory—Rules and regulations.

The Commissioners of the District of Columbia are authorized and directed to operate on reservation

thirteen, commonly known as the Washington Asylum grounds, in the city of Washington, in said District, a crematorium of size sufficient for the incineration of all bodies that can not, except at public expense, be disposed of within a reasonable time after death. Said Commissioners are hereby authorized to make and enforce all rules necessary for the proper maintenance and operation of said crematorium. (Apr. 20, 1906, 34 Stat. 123, ch. 1641, § 2; Feb. 22, 1921, 41 Stat. 1144, ch. 70, § 7; Dec. 4, 1967, Pub. L. 90-173, § 1, 81 Stat. 532.)

AMENDMENTS

1967—Act Dec. 4, 1967, Pub. L. 90-173, amended section by:

Deleting from the first sentence the following:

“, and for the incineration of such other bodies as may be presented for that purpose by the persons having custody thereof”

Striking out the comma after the word “crematorium”, in the second sentence, inserting a period in lieu and striking out the following language from the second and third sentences:

“and to prescribe and collect for the incineration of bodies not necessarily disposed of at public expense fees in such amounts as may be required to defray the cost of incineration: *Provided*, That in any case the Commissioners may, by special order, waive or reduce the usual charges whenever, in the opinion of said Commissioners, to enforce such charges would be burdensome or oppressive upon the person or persons responsible for the disposal of the remains. All fees collected under the provisions of this section shall be paid to the collector of taxes of the District of Columbia, and be deposited by him in the Treasury of the United States wholly to the credit of the District of Columbia.”

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(226) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section as to making rules for the proper maintenance and operation of a public crematorium, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 27-131.

TITLE 28.—COMMERCIAL INSTRUMENTS AND TRANSACTIONS

SUBTITLE I.—UNIFORM COMMERCIAL CODE

Article 1.—GENERAL PROVISIONS

PART 1.—SHORT TITLE, CONSTRUCTION, APPLICATION AND SUBJECT MATTER

§ 28:1-102. Purposes; rules of construction; variation by agreement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-201.

NOTES TO DECISIONS

Applicability of Uniform Commercial Code

The issues in a law suit by a buyer of automobile against chattel mortgagee, which held the mortgage created by the seller and which repossessed automobile, were governed by the provisions of Uniform Commercial Code, so that the determination of issues in accordance with theory of estoppel constituted error; however, where judgment of trial judge was correct, such error did not require reversal. *Franklin Investment Co., Inc. v. E. P. Homburg* (D.C. App. 1969, 252 A. 2d 95).

§ 28:1-103. Supplementary general principles of law applicable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-201.

PART 2.—GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

§ 28:1-201. General definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1209, 28:7-102, 28:9-105, 28:9-204, 28:9-307, 28:10-104, 38-205, 40-701, 40-901.

§ 28:1-205. Course of dealing and usage of trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-201, 28:2-202, 28:2-208.

Article 2.—SALES

CROSS REFERENCES

Consumer credit cost disclosure, see title 15 U.S.C. § 1601 et seq.

Extortionate credit transactions, see title 18 U.S.C. § 891 et seq.

PART 1.—SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER

§ 28:2-103. Definitions and index of definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:7-102.

§§ 28:2-104, 28:2-105.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:2-103.

§ 28:2-106. Definitions: “contract”; “agreement”; “contract for sale”; “sale”; “present sale”; “confirming” to contract; “termination”; “cancellation”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:5-103, 28:7-102, 28:9-105.

§ 28:2-107. Goods to be severed from realty; recording.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-105.

PART 2.—FORUM, FORMATION AND READJUSTMENT OF CONTRACT

§ 28:2-201. Formal requirements; statute of frauds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-206, 28:2-209, 28:2-326

§ 28:2-202. Final written expression; parol or extrinsic evidence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-316, 28:2-326.

§ 28:2-204. Formation in general.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-311.

§ 28:2-208. Course of performance or practical construction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-201, 28:2-202.

PART 3.—GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

§ 28:2-310. Open time for payment or running of credit; authority to ship under reservation.

NOTES TO DECISIONS

Buyer's remedy for breach of warranty

Rescission is not the buyer's only remedy for a breach of warranty; the buyer may also affirm the contract and seek damages for its breach. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

Place of inspection

Where turkey broker's remedy for turkey producer's breach of sales contract was not limited to rescission and sales contract did not provide for inspection upon delivery to broker, trial court's finding that place of inspection was point of delivery rather than ultimate destination was reversible error in broker's action against producer for breach of contract. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

§ 28:2-311. Options and cooperation respecting performance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-319.

§ 28:2-312. Warranty of title and against infringement; buyer's obligation against infringement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-607.

§ 28:2-316. Exclusion or modification of warranties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-311.

§ 28:2-319. F.O.B. and F.A.S. terms.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-314.

REFERENCE IN TEXT

The reference in subsection (c) to section 28:8-323 is obviously an error, as there is no such section. In all probability it should be 28:2-323.

§ 28:2-321. C.I.F. or C. & F.; "net landed weights"; "payment on on¹ arrival"; warranty of condition on arrival.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-513.

§ 28:2-323. Form of bill of lading required in overseas shipment; "overseas".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-319, 28:2-503, 28:7-102.

§ 28:2-324. "No arrival, no sale" term.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-613.

§ 28:2-325. "Letter of credit" term; "confirmed credit".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-103.

§ 28:2-326. Sale on approval and sale or return; consignment sales and rights of creditors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-201, 28:2-103.

§ 28:2-237. Special incidents of sale on approval and sale or return.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-509.

PART 4.—TITLE, CREDITORS AND GOOD FAITH PURCHASERS

§ 28:2-401. Passing of title; reservation for security; limited application of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-201, 28:2-106.

§ 28:2-402. Rights of seller's creditors against sold goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:7-504.

§ 28:2-403. Power to transfer; good faith purchase of goods; "entrusting".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-702, 28:7-503.

PART 5.—PERFORMANCE

§ 28:2-501. Insurable interest in goods; manner of identification of goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-401.

§ 28:2-502. Buyer's right to goods on seller's insolvency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-402, 28:2-711.

¹ So in original. Probably should read "payment on arrival".

§ 28:2-503. Manner of seller's tender of delivery.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-319, 28:2-509.

§ 28:2-504. Shipment by seller.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-319.

§ 28:2-505. Seller's shipment under reservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-509.

§ 28:2-507. Effect of seller's tender; delivery on condition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-505.

§ 28:2-508. Cure by seller of improper tender or delivery; replacement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-323.

NOTES TO DECISIONS

Buyer's refusal to allow correction of defect

Seller's proffered removal of television chassis for a short period in order to determine cause of color malfunction and ascertain extent of adjustment or correction needed to effect full operational efficiency presented no great inconvenience to buyer, and refusal of buyer's daughter, on buyer's behalf, to allow this precluded rescission. *W. Wilson t/a etc. v. N. Scampoli* (D.C. App. 1967, 228 A. 2d 848).

§ 28:2-510. Effect of breach on risk of loss.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-509.

§ 28:2-513. Buyer's right to inspection of goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-310.

NOTES TO DECISIONS

Buyer's remedy for breach of warranty

Rescission is not the buyer's only remedy for a breach of warranty; the buyer may also affirm the contract and seek damages for its breach. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

Place of inspection

Where turkey broker's remedy for turkey producer's breach of sales contract was not limited to rescission and sales contract did not provide for inspection upon delivery to broker, trial court's finding that place of inspection was point of delivery rather than ultimate destination was reversible error in broker's action against producer for breach of contract. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

PART 6.—BREACH, REPUDIATION AND EXCUSE

§ 28:2-602. Manner and effect of rightful rejection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-606.

§§ 28:2-603, 28:2-604.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:2-602.

§ 28:2-606. What constitutes acceptance of goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-201.

§ 28:2-607. Effect of acceptance; notice of breach; burden of establishing breach after acceptance; notice of claim or litigation to person answerable over.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-714.

NOTES TO DECISIONS

Buyer's remedy for breach of warranty

Rescission is not the buyer's only remedy for a breach of warranty; the buyer may also affirm the contract and seek damages for its breach. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

Place of inspection

Where turkey broker's remedy for turkey producer's breach of sales contract was not limited to rescission and sales contract did not provide for inspection upon delivery to broker, trial court's finding that place of inspection was point of delivery rather than ultimate destination was reversible error in broker's action against producer for breach of contract. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

§ 28:2-608. Revocation of acceptance in whole or in part.

NOTES TO DECISIONS

Buyer's refusal to allow correction of defect

Seller's proffered removal of television chassis for a short period in order to determine cause of color malfunction and ascertain extent of adjustment or correction needed to effect full operational efficiency presented no great inconvenience to buyer, and refusal of buyer's daughter, on buyer's behalf, to allow this precluded rescission, D.C. Code. *W. Wilson t/a etc. v. N. Scampoli* (D.C. App. 1967, 228 A. 2d 848).

§ 28:2-609. Right to adequate assurance of performance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-210, 28:2-611.

§ 28:2-610. Anticipatory repudiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-709, 28:5-115.

§ 28:2-612. "Installment contract"; breach.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-601, 28:2-616, 28:2-703, 28:2-711.

§ 28:2-613. Casualty to identified goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-324.

PART 7.—REMEDIES

§ 28:2-702. Seller's remedies on discovery of buyer's insolvency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-705.

§ 28:2-703. Seller's remedies in general.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-610, 28:2-602, 28:2-706.

§ 28:2-704. Seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-610.

§ 28:2-705. Seller's stoppage of delivery in transit or otherwise.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-702, 28:2-703, 28:7-403.

§ 28:2-706. Seller's resale including contract for resale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-703, 28:2-707, 28:2-711, 28:2-718.

§ 28:2-707. "Person in the position of a seller".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:2-104, 28:2-706, 28:5-115.

§ 28:2-708. Seller's damages for non-acceptance or repudiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-703, 28:2-723.

§ 28:2-709. Action for the price.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-703.

§ 28:2-710. Seller's incidental damages.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-706 to 28:2-708, 28:5-115.

§ 28:2-711. Buyer's remedies in general; buyer's security interest in rejected goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-602, 28:2-603, 28:2-610, 28:2-706.

§ 28:2-712. "Cover"; buyer's procurement of substitute goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-103.

§ 28:2-713. Buyer's damages for non-delivery or repudiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-711, 28:2-723.

§ 28:2-714. Buyer's damages for breach in regard to accepted goods.

NOTES TO DECISIONS

Damages for breach of contract

Under breach of contract, whether a warranty or otherwise, defendant is liable for those damages which are a natural consequence and proximate result of his conduct. *Rubewa Products Co., Inc. v. Watson's Quality Turkey Products, Inc.* (D.C. App. 1968, 242 A. 2d 609).

Measure of damages

Under breach of contract, whether a warranty or otherwise, defendant is liable for those damages which are a natural consequence and proximate result of his conduct. *J. A. Meyers et ano. v. G. Antone et ano.* (D.C. App. 1967, 227 A. 2d 56).

§ 28:2-715. Buyer's incidental and consequential damages.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-712, 28:2-713.

§ 28:2-716. Buyer's right to specific performance or replevin.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-402, 28:2-711.

§§ 28:2-718, 28:2-719.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 28:2-316, 28:2-601.

§ 28:2-723. Proof of market price: time and place.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-708, 28:2-713.

§ 28:2-725. Statute of limitations in contracts for sale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 12-301.

Article 3.—COMMERCIAL PAPER

PART 1.—SHORT TITLE, FORM AND INTERPRETATION

§ 28:3-102. Definitions and index of definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-104.

§ 28:3-104. Form of negotiable instruments; "draft"; "check"; "certificate of deposit"; "note".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:3-102, 28:4-104, 28:5-103, 28:9-105.

§§ 28:3-108, 28:3-109.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 28:3-102.

§ 28:3-115. Incomplete instruments.

(1) When a paper whose contents at the time of signing show that it is intended to become an instrument is signed while still incomplete in any necessary respect it cannot be enforced until completed, but when it is completed in accordance with authority given it is effective as completed.

(2) If the completion is unauthorized the rules as to material alteration apply (section 28:3-407), even though the paper was not delivered by the maker or drawer; but the burden of establishing that any completion is unauthorized is on the party so asserting. (Dec. 30, 1963, Pub. L. 88-243, § 1, 77 Stat. 676, eff. Jan. 1, 1965.)

CODIFICATION

This section is set out in this supplement to correct a typographical error in the section as it appears in the 1967 edition of the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-413.

PART 2.—TRANSFER AND NEGOTIATION

§ 28:3-201. Transfer: right to indorsement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-603.

§ 28:3-205. Restrictive indorsements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:3-206, 28:3-419.

§ 28:3-206. Effect of restrictive indorsement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-419.

§ 28:3-208. Reacquisition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-601.

PART 3.—RIGHTS OF A HOLDER

§ 28:3-302. Holder in due course.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:3-206, 28:4-104, 28:4-209, 28:5-103, 28:5-114, 28:9-105, 28:9-309.

§ 28:3-303. Taking for value.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-201.

§ 28:3-304. Notice to purchaser.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-206.

§ 28:3-305. Rights of a holder in due course.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-408.

NOTES TO DECISIONS

Holder in due course

In a case where depository bank gave its customer provisional credit on a check deposited with the bank and permitted customer to withdraw a portion of the credit before bank discovered that the drawers had stopped payment, bank was a holder in due course as to amount of provisional credit withdrawn and, in absence of applicable defenses as provided in section 28:3-305, could recover from drawers. *Falls Church Bank etc. v. Wesley Heights, Inc.* (D.C. App. 1969, 256 A. 2d 915).

§ 28:3-307. Burden of establishing signatures, defenses and due course.

NOTES TO DECISIONS

Establishment of a defense

Without introduction of some evidence, the defenses of failure of consideration, fraud, and usury raised by the signer of note in his pleading, did not constitute "establishment of a defense" under statute providing that once signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense. *Calvert Credit Corporation v. I. J. Humble* (D.C. App. 1969, 249 A. 2d 518).

PART 4.—LIABILITY OF PARTIES

§ 28:3-401. Signature.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-102.

§ 28:3-407. Alteration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:3-115, 28:3-601.

§ 28:3-408. Consideration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-306.

§ 28:3-410. Definition and operation of acceptance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:4-104, 28:5-103.

§ 28:3-411. Certification of a check.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:3-601, 28:4-104.

§ 28:3-412. Acceptance varying draft.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-601.

§ 28:3-415. Contract of accommodation party.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-102.

§ 28:3-419. Conversion of instrument; innocent representative.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-203.

**PART 5.—PRESENTMENT, NOTICE OF DISHONOR
AND PROTEST**

§ 28:3-502. Unexcused delay; discharge.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-501, 28:3-601.

§ 28:3-504. How presentment made.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:4-104.

§ 28:3-505. Rights of party to whom presentment is made.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-210.

§ 28:3-507. Dishonor; holder's right of recourse; term allowing re-presentment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:3-102.

§§ 28:3-508, 28:3-509.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 28:3-102, 28:4-104.

§ 28:3-511. Waived or excused presentment, protest or notice of dishonor or delay therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-501.

PART 6.—DISCHARGE

§ 28:3-603. Payment or satisfaction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-301, 28:3-601.

§ 28:3-604. Tender of payment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-118, 28:3-601.

§§ 28:3-605, 28:3-606.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:3-601.

PART 8.—MISCELLANEOUS

§ 28:3-801. Drafts in a set.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-112.

§ 28:3-802. Effect of instrument on obligation for which it is given.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-511.

Article 4.—BANK DEPOSITS AND COLLECTIONS

PART 1.—GENERAL PROVISIONS AND DEFINITIONS

§ 28:4-102. Applicability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-104.

§ 28:4-104. Definitions and index of definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:5-103.

§ 28:4-105. "Depository bank"; "intermediary bank"; "collecting bank"; "payor bank"; "presenting bank"; "remitting bank".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-102, 28:4-104, 28:8-102.

**PART 2.—COLLECTION OF ITEMS: DEPOSITARY AND
COLLECTING BANKS**

§ 28:4-201. Presumption and duration of agency status of collecting banks and provisional status of credits; applicability of article; item indorsed "pay and bank".

NOTES TO DECISIONS

Holder in due course

In a case where depository bank gave its customer provisional credit on a check deposited with the bank and permitted customer to withdraw a portion of the credit before bank discovered that the drawers had stopped payment, bank was a holder in due course as to amount of provisional credit withdrawn and, in absence of applicable defenses as provided in section 28:3-305, could recover from drawers. *Falls Church Bank etc. v. Wesley Heights, Inc.* (D.C. App. 1969, 256 A. 2d 915).

§ 28:4-207. Warranties of customer and collecting bank on transfer or presentment of items; time for claims.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-302.

§ 28:4-208. Security interest of collecting bank in items, accompanying documents and proceeds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-201, 28:9-203, 28:9-302, 28:9-312.

NOTES TO DECISIONS

Holder in due course

In a case where depository bank gave its customer provisional credit on a check deposited with the bank and permitted customer to withdraw a portion of the credit before bank discovered that the drawers had stopped payment, bank was a holder in due course as to amount of provisional credit withdrawn and, in absence of applicable defenses as provided in section 28:3-305, could recover from drawers. *Falls Church Bank etc. v. Wesley Heights, Inc.* (D.C. App. 1969, 256 A. 2d 915).

§ 28:4-209. When bank gives value for purposes of holder in due course.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-201.

NOTES TO DECISIONS

Holder in due course

In a case where depository bank gave its customer provisional credit on a check deposited with the bank and permitted customer to withdraw a portion of the credit before bank discovered that the drawers had stopped payment, bank was a holder in due course as to amount of provisional credit withdrawn and, in absence of applicable defenses as provided in section 28:3-305, could recover from drawers. *Falls Church Bank, etc. v. Wesley Heights, Inc.* (D.C. App. 1969, 256 A. 2d 915).

§ 28:4-210. Presentment by notice of item not payable by, through or at a bank; liability of secondary parties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-504.

§ 28:4-211. Media of remittance; provisional and final settlement in remittance cases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:4-201, 28:4-212 to 28:4-214.

§ 28:4-212. Right of charge-back or refund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:4-201, 28:4-202.

§ 28:4-213. Final payment of item by payor bank; when provisional debits and credits become final; when certain credits become available for withdrawal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:4-201, 28:4-212, 28:4-214, 28:4-301, 28:4-303.

PART 3.—COLLECTION OF ITEMS: PAYOR BANKS

§ 28:4-301. Deferred posting; recovery of payment by return of items; time of dishonor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:3-507, 28:4-212.

§ 28:4-302. Payor bank's responsibility for late return of item.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-303.

PART 4.—RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

§ 28:4-403. Customer's right to stop payment; burden of proof of loss.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:4-404.

§ 28:4-407. Payor bank's right to subrogation on improper payment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:3-801.

Article 5.—LETTERS OF CREDIT

§ 28:5-102. Scope.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:5-103, 28:5-104, 28:5-117.

§§ 28:5-108, 28:5-112.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:5-103.

§ 28:5-114. Issuer's duty and privilege to honor; right to reimbursement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-512.

§ 28:5-116. Transfer and assignment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-305.

Article 6.—BULK TRANSFERS

§ 28:6-102. "Bulk transfer"; transfers of equipment; enterprises subject to this article; bulk transfers subject to this article.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-104.

§ 28:6-103. Transfers excepted from this article.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-111.

§ 28:6-104. Schedule of property, list of creditors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:6-107, 28:6-108.

§ 28:6-105. Notice to creditors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:6-107, 28:6-109.

§ 28:6-107. The notice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:6-105, 28:6-109.

§ 28:6-108. Auction sales; "auctioneer".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:6-104, 28:6-105.

Article 7.—WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE

PART 1.—GENERAL

§ 28:7-102. Definitions and index of definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:2-103.

PART 2.—WAREHOUSE RECEIPTS: SPECIAL PROVISIONS

§ 28:7-204. Duty of care; contractual limitation of warehouseman's liability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:7-202.

NOTES TO DECISIONS

Negligence

In a case where warehouse was of fire resistant construction, fire alarm system was effectively operating, police and fireman service were near, warehouse was patrolled at fixed intervals by outside guard and iron bars and wire-mesh screening covered the windows on the ground warehouseman was not negligent in failing to provide 24-hour inside guard service or in failing to adequately secure windows and was not liable for damage to stored furniture from fire set by demented policeman after policeman removed wire-mesh screen, but, in any event, arson under the circumstances peculiar to this case was not a foreseeable result of any failure on part of warehouseman. *Union Storage Co., Inc. v. J. D. McIntyre, et al.* (D.C. App. 1969, 256 A. 2d 787).

§§ 28:7-205, 28:7-209.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:7-202.

§ 28:7-210. Enforcement of warehouseman's lien.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:7-206, 28:7-308.

PART 3.—BILLS OF LADING: SPECIAL PROVISIONS

§ 28:7-303. Diversion; reconsignment; change of instructions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:7-403.

PART 4.—WAREHOUSE RECEIPTS AND BILLS OF LADING: GENERAL OBLIGATIONS

§ 28:7-403. Obligation of warehouseman or carrier to deliver; excuse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:7-102, 28:7-202, 28:7-503.

PART 5.—WAREHOUSE RECEIPTS AND BILLS OF LADING: NEGOTIATION AND TRANSFER

§ 28:7-501. Form of negotiation and requirements of "due negotiation".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:7-102, 28:9-309.

§ 28:7-502. Rights acquired by due negotiation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:5-114.

§ 28:7-503. Document of title to goods defeated in certain cases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:7-209, 28:7-403.

§ 28:7-507. Warranties on negotiation or transfer of receipt or bill.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:5-114.

Article 8.—INVESTMENT SECURITIES

PART 1.—SHORT TITLE AND GENERAL MATTERS

§ 28:8-102. Definitions and index of definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:5-103, 28:9-105.

§ 28:8-104. Effect of overissue; “overissue”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-102, 28:8-404, 28:8-405.

§ 28:8-106. Applicability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-104.

PART 2.—ISSUE—ISSUER

§ 28:8-201. “Issuer”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-102.

§ 28:8-204. Effect of issuer’s restrictions on transfer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-908g.

§ 28:8-205. Effect of unauthorized signature on issue.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-202.

PART 3.—PURCHASE

§ 28:8-301. Rights acquired by purchaser; “adverse claim”; title acquired by bona fide purchaser.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-102, 28:8-320, 28:9-309.

§ 28:8-302. “Bona fide purchaser”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:5-114, 28:8-102.

§ 28:8-303. “Broker”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-102.

§ 28:8-304. Notice to purchaser of adverse claims.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-310.

§ 28:8-306. Warranties on presentment and transfer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:5-114.

§ 28:8-308. Indorsement, how made; special indorsement; indorser not a guarantor; partial assignment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-312, 28:8-401, 28:8-402, 28:8-404.

§ 28:8-311. Effect of unauthorized indorsement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-306, 28:8-315.

§ 28:8-312. Effect of guaranteeing signature or indorsement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-402.

§ 28:8-319. Statute of frauds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:1-206.

§ 28:8-320. Transfer or pledge within a central depository system.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-313.

PART 4.—REGISTRATION

§ 28:8-402. Assurance that indorsements are effective.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-102, 28:8-401, 28:8-403.

§ 28:8-403. Limited duty of inquiry.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-401, 28:8-404.

§ 28:8-404. Liability and non-liability for registration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:8-311.

Article 9.—SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

PART 1.—SHORT TITLE, APPLICABILITY AND DEFINITIONS

§ 28:9-103. Accounts, contract rights, general intangibles and equipment relating to another jurisdiction; and incoming goods already subject to a security interest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-104, 28:9-102, 28:9-401.

§ 28:9-104. Transactions excluded from article.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-102.

§ 28:9-105. Definitions and index of definitions.

REFERENCE IN TEXT

The reference to section 28:9-196 in subsection (h) (2) is an error. It should be section 28:9-106.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-1209, 38-205, 40-701, 40-901.

§§ 28:9-106, 28:9-107.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 28:9-105.

§ 28:9-109. Classification of goods; “consumer goods”; “equipment”; “farm products”; “inventory”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:2-103, 28:6-102, 28:9-105.

NOTES TO DECISIONS

Classification of goods

Under the provisions of the Uniform Commercial Code, classification of goods is mutually exclusive. *Franklin Investment Co., Inc. v. E. P. Homburg* (D.C. App. 1969, 252 A. 2d 95).

Among the same parties and at the same point in time, a product may be classified as both "inventory" and "consumer goods." *Id.*

The manner in which a product is classified under the secured transactions provisions of the Uniform Commercial Code is determined at time of agreement between parties giving rise to security interest, and, as to them, categorization remains unaffected by later transfer of product in question. *Id.*

Inventory

An automobile held by a used car dealer for purpose of sale to buying public in the ordinary course of business was "inventory" and remained so despite subsequent sale of automobile, and, thus, under provision of Uniform Commercial Code a buyer of the automobile in ordinary course of business bought the same free of security interest of dealer's chattel mortgagee. *Franklin Investment Co. Inc. v. E. P. Homburg* (D.C. App. 1969, 252 A. 2d 95).

§ 28:9-113. Security interests arising under article on sales.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-203, 28:9-302.

PART 2.—VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

§ 28:9-203. Enforceability of security interest; proceeds, formal requisites.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:1-206, 28:4-208.

§ 28:9-204. When security interest attaches; after-acquired property; future advances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-312.

§ 28:9-206. Agreement not to assert defenses against assignee; modification of sales warranties where security agreement exists.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-318.

§ 28:9-207. Rights and duties when collateral is in secured party's possession.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-501.

§ 28:9-208. Request for statement of account or list of collateral.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-112.

PART 3.—RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

§ 28:9-301. Persons who take priority over unperfected security interests; "lien creditor".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-105, 28:9-312.

§ 28:9-302. When filing is required to perfect security interest; security interests to which filing provisions of this article do not apply.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-103, 28:9-303.

§ 28:9-304. Perfection of security interest in instruments, documents, and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-320, 28:9-302, 28:9-303, 28:9-308, 28:9-312.

§ 28:9-305. When possession by secured party perfects security interest without filing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:8-320, 28:9-302, 28:9-303.

§ 28:9-306. "Proceeds"; secured party's rights on disposition of collateral.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-105, 28:9-302, 28:9-303, 28:9-308, 28:9-312, 28:9-402, 28:9-502.

NOTES TO DECISIONS

Inventory

An automobile held by a used car dealer for purpose of sale to buying public in the ordinary course of business was "inventory" and remained so despite subsequent sale of automobile, and, thus, under provision of Uniform Commercial Code a buyer of the automobile in ordinary course of business bought the same free of security interest of dealer's chattel mortgagee. *Franklin Investment Co., Inc. v. E. P. Homburg* (D.C. App. 1969, 252 A. 2d 95).

§ 28:9-307. Protection of buyers of goods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:7-503, 28:9-312.

NOTES TO DECISIONS

Classification of goods

Under the provisions of the Uniform Commercial Code, classification of goods is mutually exclusive. *Franklin Investment Co., Inc. v. E. P. Homburg* (D.C. App. 1969, 252 A. 2d 95).

Among the same parties and at the same point in time, a product may be classified as both "inventory" and "consumer goods." *Id.*

The manner in which a product is classified under secured transactions provisions of the Uniform Commercial Code is determined at time of agreement between parties giving rise to security interest, and, as to them, categorization remains unaffected by later transfer of product in question. *Id.*

Inventory

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§ 28:9-308. Purchase of chattel paper and non-negotiable instruments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-306, 28:9-312.

§ 28:9-309. Protection of purchasers of instruments and documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-312.

§ 28:9-310. Priority of certain liens arising by operation of law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-102, 28:9-104, 28:9-312.

§ 28:9-312. Priorities among conflicting security interests in the same collateral.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-301.

§ 28:9-313. Priority of security interests in fixtures.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-104, 28:9-105, 28:9-302, 28:9-307, 28:9-312.

§ 28:9-314. Accessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-204, 28:9-312, 28:9-315.

§ 28:9-315. Priority when goods are commingled or processed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-312, 28:9-314.

§ 28:9-316. Priority subject to subordination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-312.

PART 4.—FILING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 42-102, 42-104, 42-106, 42-107, 45-701.

§ 28:9-401. Place of filing; erroneous filing; removal of collateral.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-105.

§ 28:9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:9-405.

§ 28:9-404. Termination statement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42-104, 42-107.

PART 5.—DEFAULT

§ 28:9-502. Collection rights of secured party.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-112, 28:9-501.

§ 28:9-504. Secured party's right to dispose of collateral after default; effect of disposition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-112, 28:9-501, 28:9-503, 28:9-505, 28:9-506.

§ 28:9-505. Compulsory disposition of collateral; acceptance of the collateral as discharge of obligation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-112, 28:9-501, 28:9-506.

§ 28:9-506. Debtor's right to redeem collateral.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-112, 28:9-501.

§ 28:9-507. Secured party's liability for failure to comply with this part.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28:9-112, 28:9-501, 28:9-505.

Article 10.—CONSTRUCTION WITH OTHER LAWS

§ 28:10-104. Laws not repealed.

CODIFICATION

The provisions of subchapter II of chapter 23 of Title 28 of the 1961 edition code, consisting of former sections 28-2321 to 28-2330, have been enacted into law by act Aug. 30, 1964, Pub. L. 88-509 and now are covered by sections 28-2901 to 28-2909.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28:10-103.

SUBTITLE II.—OTHER COMMERCIAL TRANSACTIONS

Chapter 25.—BONDS AND UNDERTAKINGS

§ 28-2502. Action on bonds in a penal sum containing an avoidance condition.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 15-106.

Chapter 27.—BUSINESS HOLIDAYS AND COMPUTATION OF TIME

SUBCHAPTER I.—BUSINESS HOLIDAYS

§ 28-2701. Holidays designated—Time for performing acts extended.

CROSS REFERENCE

Federal laws relating to celebration of certain legal holidays, see title 5 U.S.C. § 6103(a).

SUBCHAPTER II.—COMPUTATION OF TIME

§ 28-2711. Daylight-saving time.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(227) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 33.—INTEREST AND USURY

§§ 28-3301, 28-3302.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 35-1361.

§ 28-3303. Usury defined.

CROSS REFERENCE

Corporations created under Chapter 9 of Title 29 prohibited from pleading any statutes against usury in any action, see § 29-904(h).

NOTES TO DECISIONS

Commission as constituting usury

Commission paid by a borrower to a loan broker for obtaining a loan from a third person does not constitute usury. *J. Oliver v. United Mortgage Company, Inc., etc.* (D.C. App. 1967, 230 A. 2d 722).

Even if loan broker had advanced his own funds to borrower, but had done so for convenience only and with expectation of reimbursing himself promptly from funds supplied by lender, broker who had retained commission for that service was not liable to borrower for allegedly usurious interest on ground that broker was principal on loan. *Id.*

Borrower was not entitled to recover portion of commission retained by loan broker for arranging loan on ground that transaction was usurious in absence of showing that broker was acting solely as agent of lender. *Id.*

§ 28-3304. Action to recover usury paid.

NOTES TO DECISIONS

Time limitation

An action by makers of a promissory note secured by deeds of trust on Washington D.C. property to recover usurious portion of interest, would have to be brought within one year of date of payment of interest under District of Columbia Code provision. *J. Katz et al. v. Simcha Company, Inc.* (Court of App. Md. 1968, 246 A. 2d 555).

Chapter 35.—STATUTE OF FRAUDS

§ 28-3502. Special promise to answer for debt or default of another.

NOTES TO DECISIONS

Conflict of laws

For the purpose of determining whether a corporate officer's personal guaranty of work to be performed by the corporation was within the statute of frauds, there was no significant difference between the form of statute in force in District of Columbia and Maryland. *I. R. Friedman v. D. Clark* (Md. C. App. 1969, 248 A. 2d 867).

Sufficiency of writing

Letter wherein shopping center operators indicated appreciation for company's efforts in assisting operators in their application for proper zoning and stated that in event of success operators would give company opportunity to be major tenant with rental and terms at least equal to that of any other major department store in the center, together with full performance by company of the assistance services, was sufficient writing to satisfy District of Columbia statute of frauds. *City Stores Company v. H. M. Ammerman et al.* (1967, 266 F. Supp. 766).

Unilateral contract

Defendants' letter stating that defendants would give plaintiff opportunity to become major tenant in contemplated shopping center with rental and terms at least equal to that of any other major store in center was sufficient evidence of unilateral contract to satisfy District of Columbia statute of frauds. *H. M. Ammerman et al. v. City Stores Company* (1968, 394 F. 2d 950, 129 U.S. App. D.C. 325).

§ 28-3504. New promise or acknowledgement¹ of contract—Action against joint contractors.

In an action upon a simple contract, an acknowledgement or promise by words only is not sufficient evidence of a new or continuing contract whereby to take the case out of the operation of the statute of limitations or to deprive a party of the benefit

¹ So in original. Does not agree with spelling in section catchline as set out in section analysis of this chapter preceding § 28-3501.

thereof unless the acknowledgement or promise is in writing, signed by the party chargeable thereby. This section does not alter or take away, or lessen the effect of a payment of principal or interest made by any person. In actions against two or more joint contractors, or executors, or administrators, if it appears at the trial, or otherwise, that the plaintiff, though barred by the statute of limitations as to one or more of the defendants, is nevertheless entitled to recover against any other defendant by virtue of a new acknowledgement or promise or otherwise, judgment may be given for the plaintiff as to that defendant. An indorsement or memorandum of a payment written or made upon a promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment is to be made, is² sufficient proof of the payment so as to take the case out of the operation of the statute of limitations. (Aug. 30, 1964, Pub. L. 88-509, § 1, 78 Stat. 677, eff. Jan. 1, 1965.)

REVISION NOTES

Based on D.C. Code, 1961 ed., § 28-3005 (Mar. 3, 1901, 31 Stat. 1390, ch. 854, § 1271).

The term "real estate" is substituted for "lands, tenements, or hereditaments" to conform with the style of revisions generally.

Changes are made in phraseology.

CROSS REFERENCES

Statutes of limitation, see § 12-301 et seq.

NOTES TO DECISIONS

Evidence—Sufficiency

The court below was correct in concluding, on issue whether clients were estopped by their informal assurances to attorney from asserting limitations as defense in attorney's action to recover fee, that the evidence was insufficient for jury. *R. M. Brown v. Edward Oliver Lamb and Dispatch, Inc.* (1969, 414 F. 2d 1210, — U.S. App. D.C. —).

² So in original. The word "not" preceding the word "sufficient" was probably inadvertently omitted.

TITLE 29.—CORPORATIONS

Chapter 1.—GENERAL PROVISIONS

§ 29-101. Reorganization of corporations existing or doing business prior to January 1, 1902—Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-238 to 29-240.

§ 29-102. Notice of application for, alteration to, or extension of charter or special privileges.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(228) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-238 to 29-240.

§ 29-103. Change of name—Procedure—Effect—Notice—Recording.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-101.

§ 29-105. Semiannual publication of financial statement required from foreign insurance companies, building associations, and banking companies, doing business in District—Exemption—Fraternal orders.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 2.—BUSINESS CORPORATIONS (1901)

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 43-503.

§ 29-201. Formation—Certificate—Exception—Dealing in real estate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101.

§ 29-202. Contents of certificate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-203, 29-234.

§§ 29-203 to 29-209.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-401, 29-101.

§ 29-210. Stock to be personal property—Manner of transfer to be prescribed by by-laws—No transfer until previous call is paid.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-225.

§ 29-211. Liability of stockholders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101.

§ 29-212. Certificate of capital stock paid in—Recording.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-211.

§ 29-213. Annual report of stock and debts—Verification—Publication.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-105, 29-214.

§§ 29-214 to 29-217.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-401, 29-101.

§ 29-218. Dividends not to be declared if corporation is thereby rendered insolvent or capital decreased—Trustees personally liable for debts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-219.

§§ 29-219 to 29-223.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-401, 29-101.

§ 29-224. Stock books open for inspection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-228.

§§ 29-225 to 29-230.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-401, 29-101.

§ 29-231. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business—Notice to stockholders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101, 29-232, 29-240.

§§ 29-232 to 29-238.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-401, 29-101.

§ 29-239. Stock—Preferred stock authorized—Classes of common—"Charter" defined—Preferences, restrictions, qualifications—Statement thereof on stock.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101.

NOTES TO DECISIONS

Applicability of provisions of 1901 Act to corporation formed in 1958

Provision which was part of Business Corporation Act of 1901 and required restrictions to be stated on certificate had no application to corporation organized for profit in 1958. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

§ 29-240. Sale, lease, or exchange of property or assets as an entirety—Transfer of franchise—Agreement submitted to stockholders—Rights of dissenting stockholders—Procedure—Effect of performance of agreement—Recording.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-401, 29-101.

Chapter 3.—BOARDS OF TRADE

§§ 29-301 to 29-307.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 29-308.

Chapter 4.—INSTITUTIONS OF LEARNING

§ 29-407. Quantity of land which may be held.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-408.

§ 29-414. Incorporation fee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-416, 29-419.

§ 29-415. License to confer degrees—Issuance by Board of Higher Education—Evidence required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-220, 29-416, 29-417, 29-419.

§ 29-416. Application for license—Recordation—Use of public school personnel authorized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-220, 29-419.

§§ 29-417, 29-418.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 9-220, 29-416, 29-419.

§ 29-419. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-416, 29-418.

§ 29-420. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-220.

Chapter 5.—RELIGIOUS SOCIETIES

§§ 29-501 to 29-511.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 29-512.

Chapter 7.—DISSOLUTION

§§ 29-715 to 29-718.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 29-240.

§§ 29-719 to 29-724, 29-726 to 29-729.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 29-836.

Chapter 8.—COOPERATIVE ASSOCIATIONS

§ 29-804. Powers of association.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-801.

§ 29-813. Voting—One member, one vote.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-801, 29-825.

§ 29-814. Proxy voting prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-825.

§ 29-822. Limitations upon the return on capital.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-831.

§ 29-823. Eligibility and admission to membership.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-801.

§ 29-826. Transfer of shares and membership—Withdrawal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-825.

§ 29-831. Allocation and distribution of net savings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-801.

§ 29-836. Dissolution—Methods—Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-805, 29-831.

§ 29-837. Penalties—Unauthorized use of name “co-operative”—Existing cooperatives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-801, 29-844.

§ 29-840. Existing cooperative groups—Acceptance of act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-801.

§ 29-841. Foreign corporations and associations—Admission to do business.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-801, 29-844.

Chapter 9.—BUSINESS CORPORATIONS (1954)

§ 29-902. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-903. Purposes.

NOTES TO DECISIONS

Applicability of provisions of 1901 Act to corporation formed in 1958

Provision which was part of Business Corporation Act of 1901 and required restrictions to be stated on certificate had no application to corporation organized for profit in 1958. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524) ..

§ 29-904. General powers.

CROSS REFERENCE

Usury defined, see § 28-3303.

NOTES TO DECISIONS

Applicability of provisions of 1901 Act to corporation formed in 1958

Provision which was part of Business Corporation Act of 1901 and required restrictions to be stated on certifi-

cate had no application to corporation organized for profit in 1958. D.C. Code 1961. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

§ 29-905. Defense of ultra vires.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Ultra vires

Nonprofit corporation representing persons engaged in business of selling, installing and servicing air-conditioning equipment was not vested with right to challenge capacity of District of Columbia gas company to enter into contractual arrangement for gas service on the ground that contract was ultra vires. *Association of Fair Competitive Practices in Air Conditioning, Inc. v. Public Service Commission of the District of Columbia, et al.* (1967, 372 F. 2d 934, 125 U.S. App. D.C. 361).

§ 29-906a. Reserved name.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-907a. Change of registered office or registered agent.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-907b. Registered agent as an agent for service.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-908a. Issuance of shares of preferred or special classes in series.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-908f. Expenses of organization, reorganization, and financing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-926.

§ 29-908g. Certificates representing shares.

NOTES TO DECISIONS

Stock voting agreement

Agreement whereby majority stockholder and minority stockholder agreed that their voting power should be equal but which was not endorsed upon stock certificates was not invalid. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

Parties to fraudulent scheme to induce minority stockholder to pay inflated price for majority stockholder's stock and who knew of agreement between majority stockholder and minority stockholder for equal voting power in corporate affairs were not entitled to claim that voting agreement was invalid because of stock certificates' failure to contain such restriction. *Id.*

Statutory provision that stock certificates must contain statement as to restrictions thereon was designed for protection of innocent purchasers of stock and could not be used as defense to suit by minority stockholder against those who were parties to fraudulent scheme whereby minority stockholder paid inflated price for majority stockholder's stock. *Id.*

§ 29-911. Voting of shares.

NOTES TO DECISIONS

Stock voting agreement

Agreement whereby majority stockholder and minority stockholder agreed that their voting power should be equal but which was not endorsed upon stock certificates was not invalid. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

Parties to fraudulent scheme to induce minority stockholder to pay inflated price for majority stockholder's stock and who knew of agreement between majority stockholder and minority stockholder for equal voting power in corporate affairs were not entitled to claim that voting agreement was invalid because of stock certificates' failure to contain such restriction. *Id.*

Statutory provision that stock certificates must contain statement as to restrictions thereon was designed for protection of innocent purchasers of stock and could not be used as defense to suit by minority stockholder against those who were parties to fraudulent scheme whereby minority stockholder paid inflated price for majority stockholder's stock. *Id.*

§§ 29-917, 29-917a.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 29-926.

§ 29-921. Incorporators.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-921b. Filing of articles of incorporation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-921g. Procedure to amend articles of incorporation before acceptance of subscriptions to shares.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS**Amendment of articles by original incorporators**

Where payment of subscription for all corporate stock was made to the promoter but the corporate minute book showed no action by board of directors with respect to subscription, original incorporators could amend articles of incorporation to increase capital stock and amendment was not governed by provision for amendment of articles of incorporation by board of directors after acceptance of subscription. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

§ 29-921h. Procedure to amend articles of incorporation after acceptance of subscription to shares.**NOTES TO DECISIONS****Amendment of Articles by original incorporators**

Where payment of subscription for all corporate stock was made to the promoter but the corporate minute book showed no action by board of directors with respect to subscription, original incorporators could amend articles of incorporation to increase capital stock and amendment was not governed by provision for amendment of articles of incorporation by board of directors after acceptance of subscription. *Sankin v. 5410 Connecticut Avenue Corp., et al.*; *Benn v. Garfield* (1968, 281 F. Supp. 524).

§ 29-923a. Filing of articles of amendment.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-924. Redemption and cancellation of shares.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-924b. Cancellation of reacquired shares.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-925. Reduction of stated capital in certain cases.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-925a.

§ 29-927d. Articles of merger or consolidation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-927g. Merger or consolidation of domestic and foreign corporations.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-927h. Merger of parent corporation and wholly owned subsidiary.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-930. Voluntary dissolution of corporation by its incorporators.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-930c. Filing of statement of intent to dissolve.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-930h. Filing of statement of revocation of voluntary dissolution proceedings.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-930k. Filing of articles of dissolution.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-931. Involuntary dissolution.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-931a. Venue and process.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-931h. Filing of decree of dissolution.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-932. Annual report of domestic corporation.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933. Admission of foreign corporation—Exemption from certificate requirement in certain cases—Service of process on exempt corporations—Rules and regulations.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(229 and 230) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (e)(2) and (5) as to fixing fees relating to process, and making rules and regulations relating to service of process, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 29-933d. Application for certificate of authority.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933e. Filing of documents on application for certificate of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933h. Change of registered office or registered agent of foreign corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933i. Service of process on foreign corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Judgment of recovery against garnishee

In this case where garnishee appeared and opposed, the motion on jurisdictional grounds, the judgment creditor's motion for judgment of recovery, though garnishee had previously failed to answer the interrogatories and where the garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with the garnishee, judgment of recovery should not be entered if, on further proceedings, it is shown that no additional wages became due judgment debtor from garnishee between receipt of writs and termination of debtor's employment and if there were otherwise cause to permit answer to be filed. *Metropolitan Roofing and Sheet Metal Co., Inc. v. Franklin Investment Co., Inc.* (D.C. App. 1969, 256 A. 2d 913).

Transacting business

Alabama insurance corporation which received insurance applications at its principal office in Alabama and for the past ten years mailed contracts of insurance to District of Columbia residents whose applications were accepted, which employed independent adjusting firm in the District on case by case basis to investigate and attempt settlement of claims against its policyholders, and which also employed attorneys to defend actions against its policyholders was maintaining a "regular, continuous course of business" in the District under statute and was subject to in personam jurisdiction by delivery of copy of complaint to District commissioners. *J. V. Stevens etc. v. American Service Mutual Insurance Co.; American Service Mutual Insurance Co. v. J. V. Stevens etc.* (D.C. App. 1967, 234 A. 2d 305).

Absence of tangible indicia of corporate presence does not automatically mean that corporation is immune from service of process if it is, in fact, carrying on regular course of business in jurisdiction. *Id.*

§ 29-933j. Amendment to articles of incorporation of foreign corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933k. Merger of foreign corporation authorized to transact business in the District.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933l. Amended certificate of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-933m. Annual report of foreign corporations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934. Withdrawal of foreign corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934a. Filing of application for withdrawal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934b. Revocation of certificate of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934c. Issuance of certificate of revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934d. Effect of revocation or withdrawal upon actions and contracts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-934f. Transacting business without certificate of authority.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-935. Commissioners—Duties and functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(231 and 232) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) and (f) in the particulars outlined in pars. 231 and 232, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-1093.

§ 29-936. Fees and license taxes, and charges.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(233) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b)(21) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 29-938. Proclamation of revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-938b. Correction of error in proclamation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-938c. Reservation of name of proclaimed corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-938d. Reinstatement of proclaimed corporations.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-941. Effect of nonpayment of fees.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-945. Waiver of notice.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 29-910a, 29-916g.

§ 29-948. Appeal from Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-949. Certificates and certified copies of certain documents to be received in evidence.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-951. Forms to be furnished by Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-952. Reincorporation or incorporation of existing corporations.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-908g, 29-952a.

§ 29-953. Transfer of duties of Recorder of Deeds.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-902.

Chapter 10.—NONPROFIT CORPORATIONS**§ 29-1002. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1006. Defense of ultra vires.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1008. Reserved name.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1010. Change of registered office or registered agent.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1083. Annual report of domestic and foreign corporations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1084. Filing of annual report of domestic and foreign corporations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1086. Proclamation of revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1088. Correction of error in proclamation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1089. Reservation of name of proclaimed corporation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1090. Reinstatement of proclaimed corporations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1091. Penalties imposed upon corporations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1092. Fees for filing documents and issuing certificates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(234) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (s) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 29-1093. Commissioners: Duties and functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(235) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (e) relating to regulations and penalties as set out in par. 235, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 29-1094. Appeal from commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1095. Certificates and certified copies to be received in evidence.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1096. Forms to be furnished by commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1099d. Filing of statement of election to accept this chapter.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 29-1099f. Actions to be in name of District of Columbia.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 30.—DOMESTIC RELATIONS

Chapter 1.—MARRIAGE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 11-1161.

§ 30-101. Prohibitions—Marriages void ab initio.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-903.

§ 30-103. Marriages void from date of decree—Age of consent.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 16-903.

NOTES TO DECISIONS

Knowledge of mental condition

Woman who knew of man's commitment to mental institution at time of marriage was not entitled to annulment and the annulment should have been granted to the man. *A. D. Martin v. L. P. Martin* (D.C. App. 1968, 240 A. 2d 363).

§ 30-104. Annulment—Party plaintiff—Next friend—Capable person who knowingly contracted illegal marriage.

NOTES TO DECISIONS

Latches and estoppel

Statutory estoppel is not applicable in an action for an annulment of marriage on the ground that plaintiff's divorce from prior marriage had not become legally effective, at the time of second marriage. *T. Taylor v. F. C. Taylor* (D.C. App. 1967, 233 A. 2d 43).

§ 30-106. Persons authorized to perform marriage ceremony.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30-107, 30-112.

§ 30-108. Celebration of marriage without license—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-107.

§ 30-109. Issuance of license.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-120.

§ 30-118. Marriage license applications as public records and open to inspection—Accessibility.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-123.

§ 30-119. Premarital examinations—Statements regarding blood test to be filed with license application.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 30-120 to 30-123.

§ 30-120. Waiver of requirement for blood test and waiting period in certain cases.

If a judge of the District of Columbia Court of General Sessions determines that public policy or the physical condition of either of the persons applying for a marriage license requires the intended marriage to be celebrated without delay, he may waive the provisions of sections 30-109 and 30-119, and a license may be issued without regard to such sections. (Oct. 15, 1966, 80 Stat. 959, Pub. L. 89-682, § 3; July 7, 1967, Pub. L. 90-53, § 1, 81 Stat. 122.)

AMENDMENT

1967—Act of July 7, 1967, amended section by striking "United States District Court for the District of Columbia" and inserting in lieu "District of Columbia Court of General Sessions".

EFFECTIVE DATE

Section as effective upon expiration of 90 days after date of its enactment (Oct. 15, 1966), see § 7 of act of Oct. 15, 1966, set out as a note under § 30-118.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-123.

§§ 30-121, 30-122.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 30-123.

§ 30-123. Penalties for wrongful acts or failure to comply with sections 30-118 to 30-123.

Whoever—

(1) knowingly divulges, other than in accordance with the provisions of sections 30-118 to 30-123, any information, derived from the laboratory blood test required by section 30-119, relating to any person suffering, or suspected to be suffering from, syphilis,

(2) knowingly misrepresents any fact called for by the statement required by such section, or knowingly falsifies any material fact in connection with the laboratory blood test required by such section,

(3) knowingly issues a marriage license without having received the statement required under such section or an order of the District of Columbia Court of General Sessions issued under section 30-120, or

(4) otherwise fails to comply with any other provision of sections 30-118 to 30-123.

shall be imprisoned for not more than six months, or fined not more than \$250, or both. Prosecutions for violations of this section shall be conducted by the Corporation Counsel for the District of Columbia. (Oct. 15, 1966, 80 Stat. 960, Pub. L. 89-682, § 6; July 7, 1967, Pub. L. 90-53, § 1, 81 Stat. 122.)

AMENDMENT

1967—Act of July 7, 1967, amended section by striking “United States District Court for the District of Columbia”, and inserting in lieu “District of Columbia Court of General Sessions”.

EFFECTIVE DATE

Section as effective upon expiration of 90 days after date of its enactment (Oct. 15, 1966), see § 7 of act Oct. 15, 1966, set out as a note under § 30-118.

Chapter 2.—PROPERTY RIGHTS

§ 30-216. Release of dower.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-501.

Chapter 3.—UNIFORM SUPPORT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 11-1141, 11-1161.

§ 30-302. Definitions.

NOTES TO DECISIONS

Duration of support

Father's motion to vacate and set aside all support orders entered against him, under Uniform Reciprocal Enforcement of Support Act, was premature where filed before child's 18th birthday, and judgment under Act required current support payments until child reached 18. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

Law governing

District of Columbia judgment, under Uniform Reciprocal Enforcement of Support Act, requiring husband to make support payments until child reaches 18, was not in conflict with doctrines of res judicata or full faith and credit regarding Michigan divorce decree which required payments only until age 17. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

§ 30-303. Remedies additional to those now existing.

NOTES TO DECISIONS

Additional support

Under Uniform Reciprocal Enforcement of Support Act, wife, who has obtained foreign divorce, may petition for additional support after divorce decree has been fully satisfied. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

Decision determining father's continued liability under judgment previously entered under Uniform Act and requiring support payments until Michigan child should reach 18, would not impair right of mother, who had obtained Michigan divorce, to petition Michigan court for further support under Uniform Act after child reached 18. *Id.*

Imprisonment for contempt

The intermediate appellate court was quite aware that order of imprisonment must take into account the financial ability of the contemnor to comply with the terms of a court order, and that the appellant failed to make a

showing of lack of financial ability in this case. *J. R. Scott v. I. R. Scott* (1967, 382 F. 2d 461, 127 U.S. App. D.C. 245).

Money judgment

Money judgment was proper means of collecting arrears in payments due under foreign decree for support of child. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

§ 30-304. Extent of duties of support.

NOTES TO DECISIONS

Reliance on divorce decree

Evidence supported finding that divorce decree was no longer being relied upon to impose a duty of support on father, where order at issue was granted in response to mother's petition to increase support payments for her child until child reached age 18, and that order, though not specific, was intended to continue at least until child was 17 years, 3 months old, and more likely until her 18th birthday, and, under either view, reliance was clearly placed on District of Columbia support laws and not on 1961 divorce decree which provided for support only until child reached age 17. *W. Howze v. E. Howze* (1967, 385 F. 2d 986, 128 U.S. App. D.C. 204).

Support duties

Under Uniform Reciprocal Enforcement of Support Act, enforceable duties of support include those imposed or impossible under laws of any state where alleged obligor was present during period for which support was sought. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

§ 30-310. Duty of court when District of Columbia is initiating State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-314.

§ 30-315. Order of support—Bond—Contempt.

NOTES TO DECISIONS

Imprisonment for contempt

The intermediate appellate court was quite aware that order of imprisonment must take into account the financial ability of the contemnor to comply with the terms of a court order, and that the appellant failed to make a showing of lack of financial ability in this case. *J. R. Scott v. I. R. Scott* (1967, 382 F. 2d 461, 127 U.S. App. D.C. 245).

§ 30-319. Application of payments—Crediting on account of other support orders.

NOTES TO DECISIONS

Application of support payments

Under support order, rendered under Uniform Act, requiring father to make support payments until child reached 18, and including “money judgment” for arrearages, any “current” payments made after 18th birthday might be applied to reduce arrearage indebtedness. *W. Howze v. E. Howze* (D.C. App. 1967, 225 A. 2d 477).

§ 30-320. Support of illegitimate children.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 30-302.

TITLE 31.—EDUCATION AND CULTURAL INSTITUTIONS

Chapter 1.—BOARD OF EDUCATION

Sec.

31-101. Election and number of members—Term of office—Commencement of term—Compensation of members—Qualifications—Forfeiture of office for failure to maintain qualifications—Vacancies—President—Secretary—Meetings.

31-104a. Members exempt from personal liability—Costs and supersedeas bond.

31-104b. Coordination with the District of Columbia Government.

31-121. Education of pages—Board authorized to employ and compensate personnel.

§ 31-101. Election and number of members—Term of office—Commencement of term—Compensation of members—Qualifications—Forfeiture of office for failure to maintain qualifications—Vacancies—President—Secretary—Meetings.

(a) The control of the public schools of the District of Columbia is vested in a Board of Education to consist of eleven elected members, three of whom are to be elected at large, and one to be elected from each of the eight school election wards established under chapter 11 of title 1. The election of the members of the Board of Education shall be conducted on a nonpartisan basis and in accordance with such chapter.

(b) (1) Except as provided in paragraph (2) of this subsection and section 1-1110(e), the term of office of a member of the Board of Education shall be four years.

(2) Of the members of the Board of Education first elected after the date of the enactment of this paragraph, three members elected from wards and two members elected at large shall serve for terms ending January 26, 1970, and the other six members shall serve for terms ending January 24, 1972. The members who shall serve for terms ending January 26, 1970, shall be determined by lots cast before the Board of Elections of the District of Columbia upon a date set and pursuant to regulation issued by the Board of Elections.

(3) The term of office of a member of the Board of Education elected at a general election shall begin at noon on the fourth Monday in January next following such election. A member may serve more than one term.

(4) The members may receive compensation at a rate fixed by the District of Columbia Council, which shall not exceed \$1,200 per annum.

(c) (1) Each member of the Board of Education elected from a ward shall at the time of his nomination (A) be a qualified elector (as that term is defined in section 1-1102) in the school election ward from which he seeks election, (B) have, for the one-year period immediately preceding his nomination, resided in the school election ward from which he is nominated, (C) have, during the three years next preceding his nomination, been an actual resident of

the District of Columbia and have during such period claimed residence nowhere else, and (D) hold no elective office other than delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States. A member shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

(2) Each member of the Board of Education elected at large shall at the time of his nomination (A) be a qualified elector (as that term is defined in section 1-1102) in the District of Columbia, (B) have, during the three-year period next preceding his nomination, been an actual resident of the District of Columbia and have during such period claimed residence nowhere else, and (C) hold no elective office other than delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States. A member shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

(3) No individual may hold the office of member of the Board of Education and also be an officer or employee of the District of Columbia government or of the Board of Education. A member will forfeit his office upon failure to maintain the qualification required by this paragraph.

(d) Whenever, before the end of his term, a member of the Board of Education dies, resigns, or becomes unable to serve or a member-elect of the Board of Education fails to take office, such vacancy shall be filled as provided in section 1-1110(e).

(e) The Board of Education shall select a President from among its members at the first meeting of the Board of Education held on or after the date (prescribed in paragraph (3) of subsection (b) of this section) on which members are to take office after each general election. The Board of Education may appoint a secretary, who shall not be a member of the Board of Education. The Board of Education shall hold stated meetings at least once a month during the school year and such additional meetings as it may from time to time provide for. Meetings of the Board of Education shall be open to the public; except that the Board of Education (1) may close to the public any meeting (or part thereof) dealing with the appointment, promotion, transfer, or termination of employment of, or any other related matter involving, any employee of the Board of Education, and (2) may close to the public any meeting (or part thereof) dealing with any other matter but no final policy decision on such other matter may be made by the Board of Education in a meeting (or part thereof) closed to the public. (June 20, 1906, 34 Stat. 316, ch. 3446, § 2; Jan. 26, 1929, 45 Stat. 1139, ch. 105; June 25, 1936, 49 Stat. 1921, ch. 804; June

25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Aug. 2, 1957, 71 Stat. 341, Pub. L. 85-119, § 1; Apr. 22, 1968, Pub. L. 90-292, § 3(a), 82 Stat. 101.)

AMENDMENTS

1968—Section 3(a) of the act Apr. 22, 1968, Pub. L. 90-292, amended the section by striking out the first paragraph of subsection (a) as the same appeared as section 2 in the act of June 20, 1906, 34 Stat. 316, being the first six sentences of subsection (a) as the same is set out in the 1967 edition of the Code and inserted in place thereof the matters set out above as subsections (a) to (e). The last paragraph of sec. 2 of the act of June 20, 1906, relating to personal liability of the members which was added by the act of Jan. 26, 1929, 45 Stat. 1139 (being the seventh sentence of subsection (a) as set out in the 1967 edition of the code) was redesignated by section 3(b) as subsection (i) and has been reclassified herein as section 31-104a.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

Section 6(a)¹, act Apr. 22, 1968, Pub. L. 90-292 provided: "The amendments made by this act [for enumeration of amendments and enactments made by this Act, see Short Title notes under this section and 1-1101] shall take effect on May 15th, 1968, except that—

- (1) the Board of Education of the District of Columbia, appointed under the Act of June 20, 1906 (as in effect on the date of the enactment of this Act), shall continue to exercise the powers, functions, duties vested in it under such Act (as in effect on such date);
- (2) vacancies in such Board shall be filled by appointment in accordance with such Act (as in effect on such date); and
- (3) the members of such Board appointed under such Act (as in effect on such date) shall continue in office; until such time as at least six of the members first elected to the Board of Education (under such Act as amended by this Act) take office.

FINDINGS AND DECLARATION OF PURPOSE

Section 2, act Apr. 22, 1968, Pub. L. 90-292, provided: "The Congress hereby finds and declares that the school is a focal point of neighborhood and community activity; that the merit of its schools and educational system is a primary index to the merit of the community; and that the education of their children is a municipal matter of primary and personal concern to the citizens of a community. It is therefore the purpose of this Act to give the citizens of the Nation's Capital a direct voice in the development and conduct of the public educational system of the District of Columbia; to provide organizational arrangements whereby educational programs may be improved and coordinated with other municipal programs; and to make District schools centers of neighborhood and community life."

REPEAL

Act Apr. 22, 1968, Pub. L. 90-292, § 3(c), repealed the provisions of the act of Aug. 2, 1957, Pub. L. 85-119, § 1, which added former subsection (b) to this section. The subsection authorized the Judges of the United States District Court to remove a member of the Board of Education for cause after a public hearing.

SHORT TITLE

Section 1, act Apr. 22, 1968, Pub. L. 90-292, provided: "This Act (amending sections 31-101 to 31-105, 31-108, 31-110 to 31-112, 31-117 and redesignating the second, third, fourth and fifth paragraphs of sec. 2(a) of the Act of June 20, 1906, as subsections 3(f), (g), (h), and (i), set out herein as sections 31-102 to 31-104a; enacting sec. 2, set out as note to 31-101, and sec. 31-104b, and making certain amendments to the District of Columbia Election Law, as set out in 'Short Title' note under section 1-1101) may be cited as the 'District of Columbia Elected Board of Education Act.'"

¹ There is no subsection (b) in sec. 6.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

- "(1) Board of Education (including the public school system)
- "(2) Board of Library Trustees (including the public libraries)
- "(3) Recreation Board
- "(4) Public Service Commission
- "(5) Zoning Commission
- "(6) Zoning Advisory Council
- "(7) Board of Zoning Adjustment
- "(8) Office of the Recorder of Deeds
- "(9) Armory Board"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1601, 31-1621.

NOTES TO DECISIONS

Approval of political party

A local statute providing that the election of District of Columbia Board of Education members should be conducted on a nonpartisan basis does not prohibit a candidate from receiving approval of political party and using benefit of such approval to his advantage. *C. L. Boone v. M. Taylor, et al.* (D.C. App. 1969, 256 A. 2d 411).

Constitutionality of appointment of school board

Constitutional provision empowering Congress to exercise exclusive legislation in all cases whatsoever over the District of Columbia gave Congress power to enact statute providing that members of the District of Columbia board of education shall be appointed by United States District Court judges of the district. *J. W. Hobson, etc., et al. v. C. F. Hansen, Superintendent etc., et al.* (1967, 265 F. Supp. 902).

Constitutional provision that Congress may by law vest appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in heads of departments empowered Congress to enact statute providing that members of the District of Columbia board of education shall be appointed by United States District Court judges of the District of Columbia. *Id.*

The fact that in a number of instances Congress has conferred appointive power upon court or judges of United States District Court for the District of Columbia was not conclusive on issue of validity of statute permitting appointment of members of District of Columbia board of education by United States District Court judges of the District of Columbia but demonstrated the deep-seated congressional view of the constitutional issue and was entitled to weight in judicial decision on that issue. *Id.*

Power conferred upon judges by statute stating that members of District of Columbia board of education shall be appointed by United States District Court judges of District of Columbia does not violate doctrine of separation of powers. *Id.*

The validity of congressional conference upon United States District Court judges of District of Columbia of power to appoint District of Columbia board of education members is not to be denied merely because an appointee in carrying out his own separation functions might become involved in controversies; the board members are accountable under the law for the manner in which they perform their duties. *Id.*

Impairment of judicial function

Appointive power conferred by Congress under statute providing that members of District of Columbia board of education shall be appointed by United States District

Court judges of the District of Columbia does not violate due process though litigation might arise before the district court over manner in which the board administers the schools. *J. W. Hobson etc., et al. v. C. F. Hansen, Superintendent etc., et al.* (1967, 265 F. Supp. 902).

Court could not presume that in any future case, which might involve performance by members of District of Columbia board of education of their duties, a denial of due process would occur by reason of statute empowering United States District Court judges of the District of Columbia to appoint the board members. *Id.*

The official act of a judge of the United States District Court for the District of Columbia in participating in selection of District of Columbia board of education members does not in and of itself preclude on due process grounds the ability of the judge to decide fairly the merits of litigation challenging validity of performance by board member of his duties as such. *Id.*

Pupils and parents interest to challenge school board's authority

Pupils in public schools administered by District of Columbia board of education and parents of those pupils had sufficient interest to challenge authority of the board to administer the schools on theory that statute providing that members of board shall be appointed by United States District Court judges of the District of Columbia is unconstitutional. *J. W. Hobson, etc., et al. v. C. F. Hansen, Superintendent etc., et al.* (1967, 265 F. Supp. 902).

The fact that issue of basic authority of District of Columbia board of education to administer schools might escape resolution unless pupils and their guardians or parents had standing to challenge validity of statute purportedly giving that authority argued for resolving doubts, if any, as to standing in favor of the pupils, parents, and guardians, in absence of hard and fast rule governing standing to sue. *Id.*

§ 31-102. Appointment—Promotion—Transfer or dismissal of directors, teachers, upon recommendation of superintendent.

No appointment, promotion, transfer, or dismissal of any director, supervising principal, principal, head of department, teacher, or any other subordinate to the superintendent of schools shall be made by the Board of Education, except upon the written recommendation of the superintendent of schools. (June 20, 1906, 34 Stat. 317, ch. 3446, § 2; redesignated as subsection 2(f) by Act Apr. 22, 1968, Pub. L. 90-292, § 3(b), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292 amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

§ 31-103. Determination of general policies—Expenditures of funds—Appointment of teachers and employees.

The Board shall determine all questions of general policy relating to the schools, shall appoint the executive officers hereinafter provided for, define their duties, and direct expenditures. All expenditures of public funds for such school purposes shall be made and accounted for as now provided by law under the direction and control of the Commissioners of the District of Columbia. The Board shall appoint all teachers in the manner hereinafter prescribed and all other employees provided for in this chapter. (June 20, 1906, 34 Stat. 317, ch. 3446, § 2; redesignated as subsection 2(g) by Act Apr. 22, 1968, Pub. L. 90-292, § 3(b), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292 amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-104. Annual estimates.

The Board of Education shall annually on the first day of October transmit to the commissioners of the District of Columbia an estimate in detail of the amount of money required for the public schools for the ensuing year, and said commissioners shall transmit the same in their annual estimate of appropriations for the District of Columbia, with such recommendations as they may deem proper. (June 20, 1906, 34 Stat. 317, ch. 3446, § 2; redesignated as subsection 2(h) by Act Apr. 22, 1968, Pub. L. 90-292, § 3(b), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292 amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

TRANSFER OF FUNCTIONS TO COMMISSIONER

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§ 31-104a. Members exempt from personal liability—Costs and supersedeas bond.

The members of the Board of Education of the District of Columbia shall not be personally liable in damages for any official action of the said Board performed in good faith in which the said members participate, nor shall any member of said Board be liable for any costs that may be taxed against them or the Board on account of any such official action by them as members of the said Board; but such costs shall be charged to the District of Columbia and paid as other costs are paid in suits brought against the municipality; nor shall the said Board or any of its members be required to give any supersedeas bond or security for costs or damages on any appeal whatever. (June 20, 1906, 34 Stat. 316, ch. 3446, § 2; 5th par., as added Jan. 26, 1929, 45 Stat. 1139, ch. 105; redesignated as subsection 2(i), Apr. 22, 1968, Pub. L. 90-292, § 3(b), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

CODIFICATION

This section was formerly the seventh sentence of subsection (a) of former section 31-101 as set out in the 1967 edition of the Code, and was the fifth paragraph of the Act of June 20, 1906, as amended by the Act of Jan. 26, 1929. Sec. 3(b) of the Act of Apr. 22, 1968, Pub. L. 90-292, redesignated this paragraph as subsection (i) of the Act of June 20, 1906, as amended and the same is therefor set out herein as a separate section. See also amendment note under section 31-101.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

§ 31-104b. Coordination with the District of Columbia Government.

(a) The Board of Education and the Commissioner of the District of Columbia shall jointly develop procedures to assure the maximum coordination of educational and other municipal programs and services in achieving the most effective educational system and utilization of educational facilities and services to serve broad community needs. Such procedures shall cover such matters as—

- (1) design and construction of educational facilities to accommodate civic and community activities such as recreation, adult and vocational education and training, and other community purposes;
- (2) full utilization of educational facilities during nonschool hours for community purposes;
- (3) utilization of municipal services such as police, sanitation, recreational, maintenance services to enhance the effectiveness and stature of the school in the community;
- (4) arrangements for cost-sharing and reimbursements on school and community programs involving utilization of educational facilities and services; and
- (5) other matters of mutual interest and concern.

(b) The Board of Education may invite the Commissioner of the District of Columbia or his designee to attend and participate in meetings of the Board on matters pertaining to coordination of educational and other municipal programs and services and on such other matters as may be of mutual interest. (Apr. 22, 1968, Pub. L. 90-292, § 5, 82 Stat. 107.)

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

§ 31-105. Superintendent—Appointment—Term of office—Duties.

The Board shall appoint one superintendent for all the public schools in the District of Columbia, who shall hold said office for a term of three years and who shall have the direction of and supervision in all matters pertaining to the instruction in all the schools under the Board of Education. He shall have a seat in the Board and the right to speak on all matters before the Board, but not the right to

vote. (June 20, 1906, 34 Stat. 317, ch. 3446, § 3; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

§ 31-106. Superintendent authorized to act between meetings of the board.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-107.

§ 31-108. Removal of superintendent.

The Board shall have power to remove the superintendent at any time for adequate cause affecting his character and efficiency as superintendent. (June 20, 1906, 34 Stat. 317, ch. 3446, § 3; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note to § 31-101.

§ 31-110. Director of intermediate instruction for white schools—Appointment—Duties.

The Board, upon the written recommendation of the superintendent of schools, shall appoint a director of intermediate instruction for the white schools who shall have charge under the direction of the superintendent of the unification of educational work of grades five to eight, inclusive. (June 20, 1906, 34 Stat. 317, ch. 3446, § 3; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 31-101.

§ 31-111. Supervisor of manual training—Appointment—Duties.

There shall be appointed by the Board a supervisor of manual training who, under the direction of the superintendent, shall have supervision of manual training instruction. (June 20, 1906, 34 Stat. 317, ch. 3446, § 3; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out "board of education" and "board" each place they appear and inserted in lieu thereof "Board of Education" and "Board" respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 31-101.

§ 31-112. Classification of academic and scientific subjects in certain high schools.

The Board of Education shall classify all academic and scientific subjects in the Central, Eastern, Western, and Business High Schools, and the McKinley Manual Training School into eight departments so that each department shall contain correlated subjects and the M Street High School and the Armstrong Manual Training School shall be similarly classified into four departments so that each department shall contain correlated subjects. (June 20, 1906, 34 Stat. 319, ch. 3446, § 5; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out “board of education” and “board” each place they appear and inserted in lieu thereof “Board of Education” and “Board” respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 31-101.

§ 31-117. Masculine pronoun to include both male and female.

Wherever the masculine pronoun occurs in this chapter it shall be construed to apply to either male or female teachers or employees of the Board of Education. (June 20, 1906, 34 Stat. 321, ch. 3446, § 12; Apr. 22, 1968, Pub. L. 90-292, § 3(d), 82 Stat. 102.)

AMENDMENT

1968—Section 3(d) of Pub. L. 90-292, amended this section by striking out “board of education” and “board” each place they appear and inserted in lieu thereof “Board of Education” and “Board” respectively.

EFFECTIVE DATE OF PUB. L. 90-292 AND TERMINATION OF OFFICE

See note under § 31-101.

§ 31-118. Teachers’ college—Expansion of normal schools.

CROSS REFERENCE

Assumption of control of District of Columbia Teachers College by Board of Higher Education, transfer of personnel, property, etc., exceptions, etc., see § 31-1603(a) (12).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§ 31-121. Education of pages—Board authorized to employ and compensate personnel.

The Board of Education of the District of Columbia is hereby authorized to employ such personnel for the education of pages as may be required and to pay compensation for such services in accordance with such rates of compensation as the Board of Education may prescribe. (July 28, 1967, Pub. L. 90-57, § 101, 81 Stat. 134.)

SIMILAR PROVISIONS

Provisions similar to those in this section are contained in the following legislative appropriation acts and in a number of earlier appropriation acts:

1970—Dec. 12, 1969, Pub. L. 91-145, § 101, 83 Stat. 350.

1969—July 23, 1968, Pub. L. 90-417, § 417, 82 Stat. 407.

CODIFICATION

The provisions of this section were taken from the Legislative Appropriation Act for 1968 and are contained in Pub. L. 90-57, 81 Stat. 135, under the heading, “Education of Pages”, which provides for the education of Congressional and Supreme Court pages.

Chapter 2.—COMPULSORY SCHOOL ATTENDANCE AND WORK PERMITS

§ 31-201. Resident children of 7 to 16 years to have instruction during school year—Duty of parent or guardian.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-205, 31-208, 31-210 to 31-213.

§ 31-202. Employed children between 14 and 16 excused from attendance after completing eighth grade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-205, 31-208, 31-210 to 31-213.

§§ 31-203, 31-204.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 31-202, 31-205, 31-208, 31-210 to 31-213.

§ 31-205. Daily record of attendance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-208, 31-210 to 31-213.

§ 31-206. Designated absences in a month to be reported.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-205, 31-208, 31-210 to 31-213.

§ 31-207. Failure to keep child at school a misdemeanor—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 16-2383, 31-202, 31-205, 31-208, 31-210 to 31-213.

SCHOOL CENSUS

§ 31-208. Census of children between ages of 3 and 18 years—Daily amendment—Details of enumeration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-205, 31-210 to 31-213.

§ 31-209. Enrollment and withdrawal of pupils to be reported.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-205, 31-208, 31-210 to 31-213.

§ 31-210. Neglect or refusal to furnish information for enumeration—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-202, 31-205, 31-208, 31-211 to 31-213.

ADMINISTRATION

§ 31-211. Department of school attendance and work permits—Creation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-212, 31-213, 36-209.

§ 31-212. Director—Appointment—Employees—Competitive examinations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-211, 31-213, 36-209.

§ 31-213. Juvenile court given jurisdiction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 31-211, 31-212, 36-209.

Chapter 3.—TUITION OF NONRESIDENTS**§ 31-301a. Attendance at Teachers' College by foreign students.****CROSS REFERENCE**

Assumption of control of District of Columbia Teachers College by Board of Higher Education, transfer of personnel, property, etc., exceptions, etc., see § 31-1603(a) (12).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-310.

§ 31-307. Payment of tuition by nonresidents—Board of Education to fix tuition—Deposit of payments—Exception.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(236) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-308 to 31-311.

§ 31-308. Board of Education to determine who is required to pay tuition—Penalties—Prosecutions to be conducted by Corporation Counsel.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(237) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-309 to 31-311.

§ 31-309. Definitions.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 31-308, 31-310, 31-311.

§ 31-310. Authority of Commissioners not affected—Delegation of functions—Section 31-301a to remain in full force and effect.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 31-308, 31-309, 31-311.

§ 31-311. Payment of tuition by students of Teachers College.**CROSS REFERENCE**

Assumption of control of District of Columbia Teachers College by Board of Higher Education, transfer of personnel, property, etc., exceptions, etc., see § 31-1603(a) (12).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-308 to 31-310.

Chapter 6.—TEACHERS, SCHOOL OFFICERS, AND OTHER EMPLOYEES IN GENERAL**§ 31-609. Commencement of compensation—Installment payments.****SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 31-1402.

§§ 31-610, 31-612.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 31-632.

METHOD OF PROMOTION OF EMPLOYEES**§ 31-630. Rules for division of time and computation of pay for services.****SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 31-1402.

§ 31-631. Double salaries—School teachers and employees in District of Columbia.

Section 5533 of title 5, U.S. Code [relating to dual compensation] shall not apply to teachers in the public schools of the District of Columbia who are also employed as teachers of night schools and vocation schools. (Oct. 6, 1917, 40 Stat. 384, ch. 79, § 9; July 8, 1918, 40 Stat. 823, ch. 139, § 1; June 5, 1920, 41 Stat. 1017, ch. 253, § 1; Aug. 19, 1964, 78 Stat. 491, 493, Pub. L. 88-448, title IV, §§ 401(i), 402(a) (17) (18).)

CODIFICATION

The reference in this section to "section 5533 of title 5, U.S. Code [relating to dual compensation]" is substituted for "section 301 of the Dual Compensation Act" on authority of § 7(b) of act Sept. 6, 1966, Pub. L. 89-554, set out in note under § 1-251. The Dual Compensation Act (Aug. 19, 1964, 78 Stat. 484, Pub. L. 88-448), except for subsec. (e) of section 301 and other provisions of the act not permanent and general, was repealed by act Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-554, § 8(a) (of which § 1 revised and enacted title 5, U.S.C., into law), and § 301 thereof, except for subsec. (e) of that section, is now covered by § 5533 of title 5, U.S.C. For provisions of subsec. (e) of such § 301, see note under former § 31-631b.

Double salary restriction was made inapplicable to teachers employed as night school and vocation school teachers by Second Deficiency Appropriation Act, 1917, act Oct. 6, 1917; to teachers employed by executive departments or independent establishments of the United States government and employees of the community center by First Deficiency Appropriation Act, 1918, act July 8, 1918; and to employees of the school garden department by the Third Deficiency Appropriation Act, 1920, act June 5, 1920.

This section set out in this supplement to correct an error in text.

§ 31-631a. Same—Custodial employees in District of Columbia.**SECTION REFERRED TO IN U.S. CODE**

This section is referred to in title 5 section 5533 U.S. Code.

SABBATICAL YEAR**§§ 31-632, 31-633.****SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in sections 31-634 to 31-637, 31-728, 31-1546.

§ 31-634. Teachers' salary while on leave for educational purposes—Deductions.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 31-728, 31-635, to 31-637, 31-1546.

§ 31-635. Employees other than elementary and secondary school teachers—Salary while on leave—Deductions—Temporary employees.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 31-634, 31-636, 31-637, 31-728, 31-1546.

§ 31-636. Inclusion of sabbatical year for promotion and retirement purposes.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 31-634, 31-635, 31-637, 31-728, 31-1546.

§ 31-637. Masculine pronoun construed to include female employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-634 to 31-636, 31-728, 31-1546.

§§ 31-638 to 31-658.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 31-622a.

TEACHERS' SALARY ACT OF 1947

§ 31-659. Transferred.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-697.

§ 31-676. Repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-692.

SICK AND EMERGENCY LEAVES

§ 31-691. Sick and emergency leaves authorized for teachers and attendance officers.

All teachers and attendance officers in the employ of the Board of Education of the District of Columbia shall be entitled to cumulative leave with pay for personal illness, presence of contagious disease or death in the home, or pressing emergency, in accordance with such rules and regulations as the said Board of Education may prescribe. Such cumulative leave with pay shall be granted at the rate of one day for each month from September through June of each year, both inclusive. Under such rules and regulations as the Board of Education may prescribe any teacher or attendance officer may use three days of such cumulative leave with pay in any school year for any purpose, upon giving timely notice of intended absence, except that in the case of leave taken under this sentence for any purpose (other than to attend a religious service or to observe a religious holiday), no more than 5 per centum of the total number of the teachers in any school in the District of Columbia public school system, or 3 teachers in such school, whichever is greater, may be on leave under this sentence. (Oct. 13, 1949, 63 Stat. 842, ch. 686, § 1; Oct. 29, 1951, 65 Stat. 660, ch. 601, § 1; Dec. 18, 1967, Pub. L. 90-212, § 1(a), 81 Stat. 659; May 27, 1968, Pub. L. 90-319, § 5, 82 Stat. 140.)

AMENDMENTS

1968—Section 5 of act May 27, 1968, Pub. L. 90-319, amended section by adding before the period at the end thereof the exception provisions relating to maximum leave.

1967—Section 1(a), Act Dec. 18, 1967, Pub. L. 90-212, amended section by striking out the third sentence, which read as follows: "The total cumulation shall not exceed seventy-five days for probationary and permanent teachers and attendance officers, and the total cumulation shall not exceed twenty days for temporary teachers and attendance officers."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-692, 31-694a, 31-697, 31-1545.

§ 31-692. Additional leave credits for service prior to July 1, 1949.

In addition to the cumulative leave provided by section 31-691, each probationary and permanent teacher shall be credited on July 1, 1949, with one

day of leave with pay for each complete year of service in the public schools of the District of Columbia prior to July 1, 1949: *Provided*, That the leave credited under the provisions of this section shall be granted for the same purposes as leave with pay is provided in section 31-691. Attendance officers shall be credited on July 1, 1949, with all cumulative leave with pay to which they are entitled on June 30, 1949, under the provisions of section 31-676. No attendance officer shall be entitled to annual or sick leave with pay under the provisions of any other act. (Oct. 13, 1949, 63 Stat. 842, ch. 686, § 2; Oct. 29, 1951, 65 Stat. 660, ch. 601, § 2; Dec. 18, 1967, Pub. L. 90-212, § 1(b), 81 Stat. 659.)

AMENDMENT

1967—Section 1(b), act Dec. 18, 1967, Pub. L. 90-212, amended the last sentence to read as above set out. This amendment resulted in the deletion of the following language from the sentence: "The total cumulation of leave with pay allowable under sections 31-691, 31-692 to 31-697 and the District of Columbia Teachers' Salary Act of 1947 shall not exceed seventy-five days, and".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-694a, 31-697, 31-1545.

§ 31-693. Application of credits to maternity leaves authorized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-692, 31-694a, 31-697, 31-1545.

§ 31-694. Additional leaves in emergencies.

In cases of serious disability or ailments, and when required by the exigencies of the situation, and in accordance with such rules and regulations as the Board of Education may prescribe, the superintendent of schools may advance additional leave with pay not to exceed thirty days to every probationary or permanent teacher or attendance officer who may apply for such advanced leave. (Oct. 13, 1949, 63 Stat. 843, ch. 686, § 4; Oct. 29, 1951, 65 Stat. 660, ch. 601, § 3; Dec. 18, 1967, Pub. L. 90-212, § 1(c), 81 Stat. 659.)

AMENDMENT

1967—Section 1(c), Act Dec. 18, 1967, Pub. L. 90-212, amended section by striking out "twenty-five" and inserting "thirty".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-692, 31-694a, 31-697, 31-1545.

§§ 31-695, 31-696.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 31-691a, 31-692, 31-694a, 31-697, 31-1545.

§ 31-697. Rules and regulations—Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-691a, 31-692, 31-694a, 31-1545.

§ 31-698. Regulation of vacation periods and annual leave by the Board of Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-698a, 31-1544.

§ 31-698a. Leave accrued prior to March 5, 1952—Authority of Board of Education to promulgate rules.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-698, 31-1544.

TEACHER FOREIGN EXCHANGE PROGRAM

§§ 31-699, 31-699a.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 31-699b, 31-1547.

§ 31-699b. Payment of salary during exchange.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1547.

Chapter 7.—RETIREMENT OF PUBLIC SCHOOL TEACHERS**SUBCHAPTER II.—RETIREMENT AFTER JUNE 30, 1946**

Sec.

31-723. Voluntary and involuntary retirement—Minimum period of service—Eligibility for retirement—Separation from service—Computation of length of service—Computation, commencement and termination of annuity.

31-729. Deferred annuity—Refunds—Deposit of amount withdrawn—Annuity to Survivors—Termination and restoration of annuity—Determination of dependency and disability.

31-730. Beneficiaries—Order of precedence for payment of lump-sum benefits—Payment of lump-sum credit—Definitions.

31-739c. Commissioners of the District of Columbia and Board of Commissioners of the District of Columbia, defined.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 31-695, 31-696a, 31-1548.

SUBCHAPTER I.—RETIREMENT BEFORE JUNE 30, 1946

§ 31-701. Deduction from pay to provide annuity—Basis of deductions—Certificate.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-702. Deductions deposited in United States Treasury to credit of teacher—Income from investments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-722.

§ 31-703. Retirement age—Continuous-employment requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-705, 31-709.

§ 31-704. Retirement for disability after age of 45—Leave of absence without pay not exceeding two years—No break in continuous service—Medical examination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-705, 31-706, 31-709.

§ 31-705. Annuity allowance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-706, 31-707.

§ 31-707. Longevity payable from District revenues—Calculation of annual appropriations—Certification to Budget Bureau—Reserves held by Treasury of United States—Interest.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-722.

§ 31-715. Records to be kept by Commissioners of the District of Columbia—Annual report to Congress—Annual actuarial evaluation of fund.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-716. Annual estimates—No officer or employee receiving regular salary from Government shall receive additional compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-716a. Estimates of annual appropriations—Actuarial valuations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-717. Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(238) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in regard to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

**SUBCHAPTER II.—RETIREMENT AFTER
JUNE 30, 1946**

§ 31-721. Deductions—Interest bearing accounts—Optional deposits—Refunds.

Beginning on the first day of the second month following June 4, 1957, there shall be deducted and withheld from the annual salary of each teacher in the public schools of the District of Columbia an amount equal to 6½ per centum of the teacher's annual salary. The amounts deducted and withheld from the annual salary of each teacher, including amounts so deducted and withheld prior to the effective date of this subchapter under subchapter I of this chapter, shall be credited to an individual account of the teacher from whose salary the deduction is made, together with interest at 4 per centum per annum, compounded annually up to the effective date of this subchapter and thereafter at 3 per centum per annum, compounded annually from December 31 of the year in which the deductions are made: *Provided*, That such interest shall not be credited after December 31, 1956, except that in the case of a teacher separated before he has completed five years of eligible service interest shall be credited to the date of separation. These individual interest-bearing accounts shall be kept by the Auditor of the District of Columbia.

* * * * *

(As amended Dec. 29, 1967, Pub. L. 90-231, § 1(1), 81 Stat. 747.)

AMENDMENT

1967—Section 1(1), act Dec. 29, 1967, Pub. L. 90-231, amended the proviso in the second sentence of the first paragraph by striking out "teaching service" and inserting in lieu "eligible service".

COMMISSIONERS OF THE DISTRICT OF COLUMBIA, DEFINED

Section 31-739c provides in part: "Wherever the term 'Commissioners of the District of Columbia' is used in sections 31-721 and 31-736, as amended, such term shall be deemed to mean the District of Columbia Council."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(239) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section as to prescribing regulations regarding the deposit of additional sums by any teacher, and prescribing table of mortality, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-634, 31-635, 31-724, 31-728, 31-729, 31-1542, 31-1603.

§ 31-722. Retirement and annuity fund—Income from investments—Separate accounts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-721, 31-724, 31-725, 31-735, 31-1542, 31-1603.

§ 31-723. Voluntary and involuntary retirement—Minimum period of service—Eligibility for retirement—Separation from service—Computation of length of service—Computation, commencement and termination of annuity.

(a) Any teacher who completes five years of eligible service and who is separated from the service—

(1) after becoming fifty-five years of age and completing thirty years of service,

(2) after becoming sixty years of age and completing twenty years of service, or

(3) after becoming sixty-two years of age, is entitled to an annuity.

(b) Any teacher who completes five years of eligible service and who is involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after (1) completing twenty-five years of service, or (2) becoming fifty years of age and completing twenty years of service, is entitled to an annuity reduced by one-sixth of 1 per centum for each full month such teacher is under the age of fifty-five years at the date of his separation from the service.

(c) Any teacher who completes five years of eligible service and who becomes sixty-two years of age may be separated from the service by the Board of Education upon the written recommendation of the Superintendent of Schools. Any teacher who becomes seventy years of age shall be separated from the service unless upon the written recommendation of the Superintendent of Schools two-thirds of the members of the Board of Education vote to retain such teacher in the public schools for the good of the service.

(d) (1) The length of a teacher's service shall be computed in accordance with section 31-728.

(2) The amount of an annuity authorized by this section shall be computed in accordance with section 31-725.

(3) Each annuity authorized by this section shall commence on the day after the teacher is separated from the service and shall terminate on the date the teacher dies. (Aug. 7, 1946, 60 Stat. 876, ch. 779, § 3; Mar. 6, 1952, 66 Stat. 17, ch. 95, § 2; June 4, 1957, 71 Stat. 46, Pub. L. 85-46, § 1; Dec. 29, 1967, Pub. L. 90-231, § 1(2), 81 Stat. 747.)

AMENDMENT

1967—Section 1(2) of act Dec. 29, 1967, Pub. L. 90-231, amended section to read as above set out. For provisions of section prior to this amendment see 1967 edition of the code.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-724, 31-725, 31-729, 31-1542, 31-1603.

§ 31-724. Disability—Annual examination—Reappointment—Discontinued annuity—Voluntary deposits.

Any teacher who completes five years of eligible service, and who, before becoming eligible for retirement under the conditions defined in sections 31-721 to 31-723, becomes physically or mentally disabled and incapable of satisfactorily performing the duties of his position, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the teacher, shall upon his own application or upon order of the Board of Education as provided later in this section be retired on an annuity computed in accordance with the provisions of sections 31-725 and 31-726 and beginning on the day after his pay ceases and he meets the service and disability requirements for title to annuity. Proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than five years next prior to becoming so disabled for useful and efficient service shall not be required in any case. No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within six months thereafter. No teacher shall be retired under the provisions of this section unless examined under the direction of the Director of Public Health of the District of Columbia, and as a result of said examination, in his judgment, or in the judgment of the Superintendent of Schools concurred in by two-thirds of the members of the Board of Education, shall have been found to be physically or mentally incapacitated for efficient service.

* * * * *

(As amended Dec. 29, 1967, Pub. L. 90-231, § 1(3), 81 Stat. 747.)

AMENDMENT

1967—Section 1(3) of act Dec. 29, 1967, Pub. L. 90-231, amended section as follows:

(1) Struck out in the first paragraph "Any teacher to whom this Act (this subchapter) applies who shall have served on active duty in the public schools of the District of Columbia for a total period of not less than five years" and inserted in lieu "Any teacher who completes five years of eligible service",

(2) Struck out in the first paragraph "sections 5 and 6 hereof: Provided, That proof" and inserted in lieu "sections 5 and 6 (31-725 and 31-726) of this Act and beginning on the day after his pay ceases and he meets the service and disability requirements for title to annuity. Proof".

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-725, 31-725a, 31-726, 31-729, 31-1542, 31-1603.

§ 31-725. Computation of annuity—Options.

(a) Except as otherwise provided in this subchapter, every teacher who shall be retired under the provisions of section 31-723 or section 31-724 shall receive an annuity composed of (1) the larger of (A) $1\frac{1}{2}$ per centum of the average salary as defined in section 31-733, multiplied by so much of the total service as does not exceed five years, or (B) 1 per centum of the average salary, plus \$25, multiplied by so much of the total service as does

not exceed five years, plus (2) the larger of (A) $1\frac{3}{4}$ per centum of the average salary multiplied by so much of the total service as exceeds five years but does not exceed ten years, or (B) 1 per centum of the average salary, plus \$25, multiplied by so much of the total service as exceeds five years but does not exceed ten years, plus (3) the larger of (A) 2 per centum of the average salary multiplied by so much of the total service as exceeds ten years, or (B) 1 per centum of the average salary, plus \$25, multiplied by so much of the total service as exceeds ten years. Each annuity is stated as an annual amount, one-twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued. Annuities payable to any retired teacher who has become eligible for retirement because of age as defined in section 31-723 shall be payable during the lifetime of the annuitant. Annuities payable to any teacher retired on account of disability shall be subject to the conditions set forth under section 31-724.

(b) Any teacher retiring under the provisions of section 31-723 or 31-724 may at the time of retirement, elect to receive in lieu of the life annuity described herein one of the following:

(1) A reduced annuity and an annuity after death payable to his or her surviving widow or widower designated by such teacher at time of retirement equal to 55 per centum of such life annuity. The life annuity of the teacher making such election, excluding any increase because of retirement under section 31-724, shall be reduced by $2\frac{1}{2}$ per centum of so much thereof as does not exceed \$3,600 and by 10 per centum of so much thereof as exceeds \$3,600. The annuity of such widow or widower shall begin on the day after the retired teacher dies. Such annuity and any right thereto shall terminate on the last day of the month before (A) the widow or widower dies, or (B) the widow or widower remarries before becoming sixty years of age. In the case of a surviving widow or widower whose annuity under this paragraph is terminated because of remarriage before becoming sixty years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(i) the surviving widow or widower elects to receive the annuity which was terminated instead of a survivor benefit to which the surviving widow or widower may be entitled, under this Act or another retirement system for employees of the Federal or District Government, by reason of the remarriage; and

(ii) any lump sum paid on termination of the annuity is returned to the teachers' retirement and annuity fund established under section 31-722.

(2) If unmarried and in good health, a reduced annuity payable to him during his life, and an annuity after his death payable to a survivor annuitant having an insurable interest in such teacher, duly designated in writing and filed with the Auditor of the District of Columbia at the

time of retirement, during the life of such survivor annuitant equal to 50 per centum of such reduced annuity. The annuity of the survivor annuitant shall commence on the day after the retired teacher dies, and such annuity and any right thereto shall terminate on the last day of the month before the death of the survivor annuitant. The annuity hereunder payable to the teacher shall be 90 per centum of the life annuity otherwise payable if the survivor annuitant is the same age or older than the annuitant, or is less than five years younger than the annuitant; 85 per centum if the survivor annuitant is five but less than ten years younger; 80 per centum if the survivor annuitant is ten but less than fifteen years younger; 75 per centum if the survivor annuitant is fifteen but less than twenty years younger; 70 per centum if the survivor annuitant is twenty but less than twenty-five years younger; and 60 per centum if the survivor annuitant is twenty-five or more years younger. No such election shall be valid until the retiring teacher shall have satisfactorily passed a physical examination under the direction of the Director of Public Health of the District of Columbia, as prescribed by the Board of Education. No person shall be eligible to receive an annuity under subsection (b) of section 31-729 based upon the service of the same teacher covering the same period of time.

* * * * *

(As amended Dec. 29, 1967, Pub. L. 90-231, § 1(4), 81 Stat. 748.)

AMENDMENTS

1967—Section 1(4), Act Dec. 29, 1967, Pub. L. 90-231, amended the section as follows:

(1) The second sentence of subsection (a) was amended to read as above set out. Before this amendment the said sentence read as follows: "Annuities granted under the terms of this subchapter shall accrue monthly and shall be due and payable in monthly installments at the beginning of the month following the month for which the annuity shall have accrued, such monthly installments being computed to the nearest dollar."

(2) By striking out the last sentence of par. (1) of subsection (b) and inserting the new matter above set out starting with the words "The annuity" and ending with "section 31-722." The said sentence before this amendment read as follows: "The annuity of such widow or widower shall begin on the first day of the month immediately following the month in which the death of the retired teacher occurs or the first day of the month following the widow's or widower's attainment of age fifty, whichever is the later, and such annuity or any right thereto shall terminate upon his or her death or remarriage."

(3) By striking out in the first sentence of par. 2 of subsection (b) "and upon the death of such survivor annuitant all payments shall cease and no further annuity shall be due and payable" and by adding after such sentence the new sentence above set out beginning with the words "The annuity" and ending with the word "annuitant".

REFERENCE IN TEXT

"This Act" referred to in text is set out as sections 31-721 to 31-725 and 31-726 to 31-739c.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-723, 31-724, 31-725b, 31-726, 31-728 to 31-730, 31-739, 31-1542, 31-1603.

§ 31-726. Annuity of teachers retired for disability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-724, 31-1542, 31-1603.

§ 31-727. Appropriations calculation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§ 31-728. Term of service—Reduction of annuity—Contributions on leave—Monthly deposits.

The years of service which form the basis for determining the amount of the annuity provided in section 31-725(a) shall be computed from the date of original probationary appointment as a teacher in the public schools of the District of Columbia, including so much of any authorized leaves of absence without pay beginning on the effective date of this amendatory Act, as does not exceed six months in the aggregate in any fiscal year, plus any service credit that may be allowed under the provisions of this section: *Provided*, That the total credit granted for leaves of absence without pay shall not exceed one year: *Provided further*, That deposits equal to 5 per centum of those portions of salary received between July 1, 1949, and the effective date of this amendatory Act for which service credit was not earned may be made, and service credit received accordingly. In computing the length of service of retiring teachers credit may be given, year for year, for (a) public-school service or its equivalent outside the District of Columbia but not to exceed ten years; (b) continuous temporary service in the public schools of the District of Columbia immediately prior to probationary appointment; (c) service in the government of the District of Columbia or the Government of the United States allowable under sections 1308, 3323, and 8331—8348 of title 5, U.S. Code [relating to retirement of government employees]; (d) periods of honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States (but not the National Guard except when ordered to active duty in the service of the United States) prior to the date of the separation upon which title to annuity is based; except that, if a teacher is awarded retired pay on account of military service, his military service shall not be included unless such retired pay is awarded on account of a service-connected disability (1) incurred in combat with an enemy of the United States or (2) caused by an instrumentality of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part 1, paragraph 1, or is awarded under title III of Public Law 910, Eightieth Congress; (e) all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 31-632 to 31-637; and (f) continuous temporary service as an employee of any cafeteria or lunchroom operated in the public school buildings of the District of Columbia during any period prior to the date on which such cafeteria or lunchroom is placed under the Office of Central Management, Department of Food Services, District of Columbia, and immediately prior to probationary appointment as a teacher in the public schools of the District of Columbia: *Provided, however*, That that portion of the annuity

which results from credit for service allowable under (a) and (c) of this section shall be reduced by the amount of any annuity which the retired teacher is entitled to receive under any Federal, State, or municipal retirement or pension system in respect to such service, except that such portion of the annuity after reduction shall not be less than the annuity purchasable with the deposit which the teacher is required to make under the provisions of this section in order to obtain credit for such service: *Provided further*, That no credit for service prescribed in this section, with the exception of periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States and all educational leaves of absence with part pay authorized by the Board of Education in accordance with sections 31-632 to 31-637, shall be given to any teacher entering the said public schools after June 30, 1926, until he shall have deposited to the credit of the teachers' retirement and annuity fund of the District of Columbia a sum equal to the accumulated contributions and interest which he would have had credited to his individual account if such service had been rendered on active duty in the public schools of the District of Columbia, said contributions to be based on the average annual salary of the class to which the teacher is appointed: *Provided further*, That all contributions to the retirement fund made by any teacher on educational leave with part pay shall be determined in accordance with the provisions of section 31-721, but otherwise no provision of this subchapter shall be interpreted to deprive any teacher employed by the Board of Education of any rights or benefits allowable under sections 31-632 to 31-637. If the teacher so elects he may deposit the required sum in the teacher's retirement and annuity fund in monthly installments with interest at 3 per centum per annum compounded annually, upon making a claim with the Commissioner of the District of Columbia, or his designated agent. This section shall not be construed to allow any teacher more than one year's credit for all services rendered in any one fiscal year.

A teacher who during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service, as defined in this section, shall not be considered, for the purposes of this subchapter, as separated from his teaching position by reason of such military service, unless he shall apply for and receive a lump-sum benefit under this subchapter, except that such teacher shall not be considered as retaining his teaching position beyond six months after the date of the approval of this Act or the expiration of five years of such military service, whichever is later.

Nothing in this subchapter shall affect the right of a teacher to retired pay, pension, or compensation in addition to the annuity herein provided. (Aug. 7, 1946, 60 Stat. 879, ch. 779, § 8; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 7; Aug. 5, 1955, 69 Stat. 536, ch. 575, § 2; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Dec. 29, 1967, Pub. L. 90-231, § 1(5), 81 Stat. 748.)

AMENDMENT

1967—Section 1(5), act Dec. 29, 1967, Pub. L. 90-231 struck out the following: "31-632 to 31-637: *Provided further*, That if the teacher so elects, he may deposit the required sum in the fund in any number of monthly installments not exceeding fifty with interest at 3 per centum per annum compounded annually, upon making claim with the Auditor, District of Columbia, within one year of the effective date of this subchapter, or within one year after the original probational appointment or reinstatement in the school service, or within two years after the date of honorable discharge from the military service: *And provided further*, That nothing contained herein shall be construed" and inserted in lieu the language above set out beginning with "Act of June 12, 1940" [sections 31-632 to 31-637] and ending with "This section, shall not be construed"; relating to monthly deposits into the retirement and annuity fund.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-723, 31-1603.

§ 31-729. Deferred annuity—Refunds—Deposit of amount withdrawn—Annuity to survivors—Termination and restoration of annuity—Determination of dependency and disability.

(a) Should any teacher to whom this subchapter applies, after completing five years of eligible service and before becoming eligible for retirement, become separated from the service, such teacher may elect to receive a deferred annuity, computed as provided in section 31-725, beginning at the age of sixty-two years and terminating on the date of his death: *Provided*, That any teacher who becomes separated from the public schools of the District of Columbia for other than retirement purposes and who does not elect to receive a deferred annuity as provided for in this section, shall receive as soon as practicable after separation the refund of deductions, deposits, or redeposits with interest thereon, or any voluntary contributions made under the provisions of section 31-721, with interest: *Provided further*, That no teacher who shall withdraw the amount of his deductions, deposits, or redeposits under this section shall, after reinstatement, be entitled to credit for previous service unless he shall deposit in the fund the amount so withdrawn by him: *And provided further*, That the amount required to be so deposited may be paid by the teacher, if he so elects, in any number of monthly installments, not exceeding one hundred, with interest at 3 per centum compounded annually.

(b)(1) In the event any teacher to whom this subchapter applies shall die subsequent to March 6, 1952 after completing five years of eligible service and is survived by a widow, or dependent widower, such widow or dependent widower shall be paid an annuity beginning the day after the teacher dies, equal to 55 per centum of the amount of an annuity computed as provided in section 31-725(a) with respect to such teacher. Such annuity and any right thereto shall terminate on the last day of the month before (A) the widow or dependent widower dies, (B) the widow or dependent widower remarries before becoming sixty years of age, or (C) the dependent widower becomes capable of self-support. In the case of a widow or dependent widower whose an-

nunity under this paragraph is terminated because of remarriage before becoming sixty years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(i) the widow or dependent widower elects to receive the annuity which was terminated instead of a survivor benefit to which the widow or dependent widower may be entitled, under this Act or another retirement system for employees of the Federal or District Government, by reason of the remarriage; and

(ii) any lump sum paid on termination of the annuity is returned to the teachers' retirement and annuity fund established under section 31-722.

(2) If any teacher to whom this subchapter applies shall die after completing five years of eligible service or after having retired under the provisions of section 31-723 or section 31-724 and is survived by a wife or husband, each surviving child who received more than one-half of his support from the teacher shall be paid an annuity equal to the smallest of (a) 40 per centum of the teacher's average salary divided by the number of children, (b) \$600, or (c) \$1,800 divided by the number of children. If such teacher is not survived by a wife or husband, each surviving child shall be paid an annuity equal to the smallest of (a) 50 per centum of the teacher's average salary divided by the number of children, (b) \$720, or (c) \$2,160 divided by the number of children. The child's annuity shall commence on the first day after the teacher dies. Such annuity and the right thereto terminate on the last day of the month before the child—

(A) becomes eighteen years of age unless he is then a student as described or incapable of self-support;

(B) becomes capable of self-support after becoming eighteen years of age unless he is then such a student;

(C) becomes twenty-two years of age if he is then such a student and capable of self-support;

(D) ceases to be such a student after becoming eighteen years of age unless he is then incapable of self-support; or

(E) dies or marries;

whichever first occurs.

Upon the death of the surviving wife or husband or termination of the annuity of the child, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the teacher.

(3) In the event any teacher to whom this subchapter applies shall die subsequent to March 6, 1952 after completing five years of eligible service, and is not survived by a widow, a dependent widower, and or children, but is survived by dependent parents or a dependent father or a dependent mother, such surviving dependent parents or parent shall be paid an annuity, beginning the first day of the month following the death of the teacher, equal to one-half the amount of an annuity computed as provided in section 31-725(a) with respect to such teacher: *Provided*, That such payments shall be made jointly to surviving dependent parents and payment of said annuity shall continue after the

death of either dependent parent: *Provided further*, That all such payments or any right thereto shall cease upon the death of both dependent parents.

(c) As used in this section—

(1) The term "widow" means a surviving wife of an individual, who either shall have been married to such individual for at least two years immediately preceding his death, or is the mother of issue by such marriage.

(2) The term "child" means—

(A) an unmarried child under eighteen years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the teacher in a regular parent-child relationship;

(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age eighteen; or

(C) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and paragraph (2) of subsection (b) of this section, a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than five months and if he shows to the satisfaction of the Commissioner of the District of Columbia that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(3) The term "dependent parents" means the natural parents of a teacher who were receiving one-half or more of their total income from said teacher immediately preceding the death of said teacher.

(4) The term "dependent father" or "dependent mother" means the natural father or natural mother of a teacher who was receiving one-half or more of his or her total income from said teacher immediately preceding the death of said teacher.

(5) The term "widower" means the surviving husband of a teacher who was married to such teacher for at least two years immediately preceding her death or is the father of issue by such marriage. The term "dependent widower" means a "widower" who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such teacher.

(6) Questions of dependency and disability arising under this section shall be determined by the Board of Education and its decisions with respect to such matters shall be final and conclusive and shall not be subject to review.

(Aug. 7, 1946, 60 Stat. 880, ch. 779, § 9; Mar. 6, 1952, 66 Stat. 19, ch. 95, § 8; June 4, 1957, 71 Stat. 47, Pub. L. 85-46, § 1; Oct. 24, 1962, 76 Stat. 1237, Pub. L. 87-881, title II, § 203 (b), (c), (d), (e); Sept. 2, 1964, 78 Stat. 886, Pub. L. 88-575, § 202; Dec. 29, 1967, Pub. L. 90-231, § 1(6), 81 Stat. 748.)

AMENDMENTS

1967—Section 1(6), act Dec. 29, 1967, amended section as follows:

(1) In subsection (a) struck out "after having served in the public schools of the District of Columbia for a total period of not less than five years" and inserting in lieu "after completing five years of eligible service", also in subsection (a) by striking out "beginning at the age of sixty-two computed as provided in section 5 of this Act" [31-725] and inserting in lieu "computed as provided in section 5 of this Act, beginning at the age of sixty-two years and terminating on the date of his death."

(2) In subsection (b) (1) struck out the language relating to at least five years of service and inserted in lieu "after completing five years of eligible service" also by striking out in (b) (1) "first day of the month following the death of the teacher"; and inserting "day after the teacher dies" by striking out in (b) (1) the language beginning with "teacher: Provided" to the end of the paragraph and inserting in lieu the new matter beginning with "teacher. Such etc." relating to termination and restoration of annuity including clauses (i) and (ii); by striking out par. (b) (2) and redesignating pars. (b) (3) as (b) (2) and (b) (4) as (b) (3); by striking out in (b) (2) as so redesignated the words "five years of service in the public schools of the District of Columbia" and inserting "five years of eligible service"; by striking out the third sentence in (b) (2) relating to the child's annuity; and inserted the new language relating to the child's annuity; by striking out in the first sentence of (b) (3) the language relating to at least five years of service and inserted in lieu "after completing five years of eligible service."

(3) Amended the 2d par. of sub. sec. (c) defining a child to read as above set out.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-724, 31-725, 31-730, 31-739a, 31-1603.

§ 31-730. Beneficiaries—Order of precedence for payment of lump-sum benefits—Payment of lump-sum credit—Definitions.

(a) Under regulations prescribed by the Commissioner of the District of Columbia, a present or former teacher may designate a beneficiary or beneficiaries for the purpose of this Act.

(b) Lump-sum benefits authorized by subsections (c), (d), and (e) of this section shall be paid in the following order of precedence, to the person or persons surviving the teacher and alive at the date title to the payment arises, and the payment bars recovery by any other person:

First, to the beneficiary or beneficiaries designated by the teacher in a signed and witnessed writing received by the Commissioner of the District of Columbia before his death.

Second, if there is no designated beneficiary, to the widow or widower of the teacher.

Third, if none of the above, to the child or children of the teacher and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the teacher or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the teacher.

Sixth, if none of the above, to such other next of kin of the teacher as the Commissioners of the District of Columbia determine to be entitled under the laws of the domicile of the teacher at the date of his death.

For the purpose of this subsection, the term "child" includes a natural child and an adopted child, but does not include a stepchild.

(c) If—

(1) a teacher dies—

(A) without a survivor, or

(B) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed; or

(2) a former teacher not retired dies, the lump sum credit shall be paid.

(d) If all annuity rights under this Act based on the service of a deceased teacher terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(e) If an annuitant dies, any annuity accrued and unpaid shall be paid.

(f) For purposes of this section, the term "lump-sum credit" means the unrefunded amount consisting of—

(1) retirement deductions made under this Act from the salary of a teacher;

(2) amounts deposited into the teachers' retirement and annuity fund by a teacher covering earlier service; and

(3) interest on the deductions and deposits made with respect to service which aggregates more than one year but excluding interest for the fractional part of a month in the total service. (Aug. 7, 1946, 60 Stat. 880, ch. 779, § 10; Mar. 6, 1952, 66 Stat. 21, ch. 95, § 9; Dec. 29, 1967, Pub. L. 90-231, § 1(7), 81 Stat. 750.)

REFERENCE IN TEXT

"This Act" referred to in text is set out as sections 31-721 to 31-725, 31-726 to 31-739c.

AMENDMENT

1967—Section 1(7), act Dec. 29, 1967, amended section to read as above set out.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-721, 31-725, 31-1603.

§§ 31-731, 31-732.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 31-1603.

§ 31-733. Definitions.

The term "teacher," under this subchapter, shall include all teachers permanently employed by the Board of Education in the public day schools of the District of Columbia, including other educational employees whose salaries are established in the District of Columbia Teachers' Salary Act of 1945, as amended, except the employees of the Department of School Attendance and Work Permits; whenever the pronoun "his" occurs in this subchapter it shall be construed to mean both male and female; and the term "annual salary" shall be construed to mean the total annual income received during the fiscal year for service rendered in the public day schools (not including summer schools) of the District of Columbia, including basic salary, automatic increases, and longevity allowances, provided for in the District of Columbia Teachers' Salary Act of 1945, as amended, and all wartime additional compensation or bonus, and this definition of "annual salary" shall not be construed to affect any deductions which have been made prior to the effective date of this subchapter from any teacher's "annual salary" as defined in subchapter I of this chapter.

The term "average salary" shall mean the largest annual rate resulting from averaging, over any period of five consecutive years of eligible service in the public schools of the District of Columbia, a teacher's rates of annual salary in effect during such period, with each rate weighted by the time it was in effect.

For purposes of this Act, the term "eligible service" means service in the public schools of the District of Columbia under a temporary, probationary, or permanent appointment to a position, the rate of compensation of which is prescribed in the salary schedule contained in section 31-1501. (Aug. 7, 1946, 60 Stat. 881, ch. 779, § 13; June 4, 1957, 71 Stat. 48, Pub. L. 85-46, § 1; Dec. 29, 1967, Pub. L. 90-231, § 1(8), 81 Stat. 751.)

REFERENCE IN TEXT

"This Act" referred to in text is set out as sections 31-721 to 31-725, 31-726 to 31-739c.

AMENDMENT

1967—Section 1(8), act Dec. 29, 1967, Pub. L. 90-231, amended section by striking out "creditable service" and inserting in lieu "eligible service" and by adding at the end the paragraph defining "eligible service".

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-725, 31-1603.

§ 31-734. Records and accounts—Report to Congress—Appropriation estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§ 31-735. Transfer of appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§ 31-736. Rules and regulations.

COMMISSIONERS OF THE DISTRICT OF COLUMBIA, DEFINED

Section 31-739c provides in part: "Wherever the term 'Commissioners of the District of Columbia' is used in sections 31-721 and 31-736, as amended, such term shall be deemed to mean the District of Columbia Council".

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(240) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with regard to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§§ 31-737, 31-738.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 31-1603.

§ 31-739. Prior retirements—Salary basis—Straight life annuity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-738, 31-1542, 31-1603.

§ 31-739a. Adjustment of annuities on basis of price index—Computation—Definitions.

(a) Effective December 1, 1965, each annuity payable from the fund which has a commencing date not later than January 1, 1966, shall be increased by (1) the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, determined by the Board of Commissioners of the District of Columbia on the basis of the annual average price index for calendar year 1962 and the price index for the month of July 1965 plus (2) 6½ per centum if the commencing date (or in the case of a survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred on or before October 1, 1956, or 1½ per centum if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee)

occurred after October 1, 1956. The month used in determining the increase based on the per centum rise in the price index under this subsection shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs.

* * * * *

(As amended Dec. 29, 1967, Pub. L. 90-231, § 1(9), 81 Stat. 751.)

AMENDMENT

1967—Section 1(9), Act Dec. 29, 1967, Pub. L. 90-231, amended the first sentence by striking out "December 30, 1965" and inserting in lieu "January 1, 1966".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For definitions of "Commissioners of the District of Columbia" or "Board of Commissioners of the District of Columbia", see section 31-739c.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-722, 31-1603.

§ 31-739b. Omitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1603.

§ 31-739c. Commissioners of the District of Columbia and Board of Commissioners of the District of Columbia, defined.

Wherever the term "Commissioners of the District of Columbia" is used in sections 31-721 and 31-736, as amended, such term shall be deemed to mean the District of Columbia Council. Wherever the term "Board of Commissioners of the District of Columbia", or "Commissioners of the District of Columbia" is otherwise used in this Act, as amended or supplemented, such term shall be deemed to mean the Commissioner of the District of Columbia. (Aug. 7, 1946, ch. 779, § 22, as added Dec. 29, 1967, Pub. L. 90-231, § 1(10), 81 Stat. 751.)

REFERENCE IN TEXT

"This Act" referred to in text is set out as sections 31-721 to 31-725, 31-726 to 31-739c.

§ 31-740. Waiver of annuity—Revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 31-741, 31-742.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 31-743, 31-744.

§ 31-743. Effective dates of annuities provided by sections 31-741 and 31-742—Computation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-744.

§ 31-744. Annuities under sections 31-741 to 31-743 to be paid from District of Columbia teachers retirement and annuity fund—Conditions under which annuities and increases terminate after July 1, 1960.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-743.

Chapter 8.—USE OF SCHOOL BUILDINGS

§ 31-801. Control by Board of Education of school buildings and grounds for purposes other than use as schools—Rules and regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-802.

Chapter 9.—MEDICAL AND DENTAL COLLEGES

§ 31-901. Medical and dental colleges not incorporated by special act of Congress to register with Commissioners—Permit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-902. Application for registration and permit—Regulations—Inquiry as to equipment.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(241) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners under this section in the particulars described in par. 241, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 31-904. Injunction proceedings—Duty of Commissioners—Jurisdiction of court.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 10.—GALLAUDET COLLEGE

SUBCHAPTER I.—CONTINUATION AND ADMINISTRATION

§ 31-1008. Admission of deaf-mutes from District—Not an institution of charity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1010, 31-1010a.

§ 31-1010a. Advance quarterly payments for certain students—Minimum rate per school year.

SIMILAR PROVISIONS

Provisions similar to those of this section are contained in the following Department of Health, Education, and Welfare Appropriation Act:

1969—Oct. 11, 1968, Pub. L. 90-557, Title II, 82 Stat. 989.

1968—Nov. 8, 1967, Pub. L. 90-132, Title II, 81 Stat. 405.

§ 31-1025. Gallaudet College—Successor to Columbia Institution for the Deaf.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1033.

§§ 31-1026 to 1028.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 31-1025, 31-1033.

§ 31-1029. Board of Directors—Appointment and composition—Terms—Power to remove members.

Gallaudet College shall be under the direction and control of a Board of Directors, composed of twenty-one members selected as follows: (1) Three public members of whom: one shall be a United States Senator appointed by the President of the Senate; two shall be Representatives appointed by the Speaker of the House of Representatives; (2) eighteen other members, all of whom shall be elected by the Board of Directors, who on June 18, 1954 shall include those persons serving as nonpublic members of the Board of Directors of the Columbia Institution for the Deaf immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Directors on nomination by the Gallaudet College Alumni Association for a term of three years. The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed. The Board of Directors shall have the power to fill any vacancy in the membership of the Board except for public members. Nine directors shall be a quorum to transact business. The said Board of Directors, by vote of a majority of its membership, shall have power to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a director, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation. (June 18, 1954, 68 Stat. 265, ch. 324, § 5; July 23, 1968, Pub. L. 90-415, §§ 1, 2, 82 Stat. 397.)

AMENDMENTS

1968—Sections 1 and 2 of act July 23, 1968, Pub. L. 90-415, amended section by increasing the member of directors to "twenty-one"; by increasing the number of the members to be elected as provided in clause (2) from "ten" to "eighteen"; and by increasing the number required to constitute a quorum from "Seven" to "Nine" effective with the election of the eight additional members.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1025, 31-1033.

§ 31-1030. Powers of the Board of Directors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1025, 31-1033.

§ 31-1031. Financial transactions and accounts—Annual report to the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1025, 31-1030, 31-1033.

§ 31-1032. Appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1025, 31-1033.

SUBCHAPTER II.—MODEL SECONDARY SCHOOL FOR THE DEAF

§ 31-1053. Agreement with Gallaudet College to establish model secondary school—Terms—Annual reports to Congress.

CODIFICATION

The provisions of section 133z-15 of title 5 U.S. Code, referred to in this section, have been incorporated in revised title 5 section 913 of the U.S. Code.

Chapter 11.—MISCELLANEOUS

Sec.

31-1118. Use of appropriated funds for transportation of students to change racial balance in schools—Education of individuals in elementary or secondary schools outside the District—Exceptions.

§ 31-1108. Title and jurisdiction over Reservation 277-F transferred for school purposes—Authority to close streets and alleys.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(242) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 31-1111. Placement of children in schools.

NOTES TO DECISIONS

Racial and economic discrimination

In this action alleging racial and economic discrimination and other wrong doings in the operation of the public school system, the court ordered: 1. An injunction against racial and economic discrimination. 2. Abolition of the track system. 3. Abolition of the optional zones. 4. Transportation of voluntary children in overcrowded schools to underpopulated schools. 5. The defendants to file for court approval of a plan for pupil assignment eliminating racial and economic discrimination in the public school system. 6. Substantial integration of the faculty of each school beginning with the new school year. 7. The defendants to file for court approval, a teacher assignment plan fully integrating the faculty of each school. *J. W. Hobson etc. v. C. F. Hansen etc.* (1967, 269 F. Supp. 401; remanded 408 F. 2d 175).

§ 31-1118. Use of appropriated funds for transportation of students, to change racial balance in schools—Education of individuals in elementary or secondary schools outside the District—Exceptions.

No funds appropriated for the government of the District of Columbia may be used—

(1) to provide transportation for students enrolled in the public schools of the District of Columbia if the transportation is provided solely to

change the racial balance in any public school in the District of Columbia, or

(2) for the cost of education (including the cost of transportation) of any individual in an elementary or secondary school located outside the District of Columbia, except (A) any handicapped individual for whom education facilities do not exist in the public school system of the District of Columbia and (B) any individual under the care, custody, or guardianship of the District of Columbia placed in a foster home or in an institution located outside the District of Columbia.

(Aug. 2, 1968, Pub. L. 90-450, title IV, § 401, 82 Stat. 615.)

SHORT TITLE

The enacting clause of act, Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968".

Chapter 13.—EDUCATIONAL AGENCY FOR SURPLUS PROPERTY

§ 31-1301. Educational Agency for Surplus Property established—Functions and duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1302. Working capital fund provided—Rules and regulations of Agency.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(243) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 31-1303. Termination of Agency.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 14.—PUBLIC SCHOOL FOOD SERVICES

Sec.

31-1405. Appropriations authorized for payment of compensation and acquisition, maintenance, and replacement of equipment.

§ 31-1401. Department of food services—Establishment—Direction and control by Board of Education—Program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1402. Powers of the Board.

* * * * *

(d) upon the written recommendation of the Superintendent of Schools, to employ on a full-time or part-time basis such personnel as may be required for the operation and maintenance of food services. The Commissioner of the District of Columbia shall fix and adjust, from time to time, the rates of pay of such personnel in accordance with the rates of pay of personnel in positions of similar levels of duties, responsibilities, and qualification requirements, as determined by the Commissioner, and with respect to part-time employees without regard to prohibitions or limitations relating to dual compensation as contained in any Act of Congress. Persons employed under the provisions of this paragraph shall be entitled to compensation for all time when and as they perform service, and, in addition thereto, shall be entitled to compensation for such holidays as fall within a regular tour of duty of not less than five days in any established workweek. Persons employed under this paragraph shall not be entitled, by reason of such service, to vacation or annual leave with pay. Notwithstanding the provisions of any other law, such persons shall be entitled to sick leave with pay, to be cumulative at the rate of one day a month, September to June, inclusive, of each year, the total cumulation not to exceed thirty days, to be granted under such conditions as the Board may by regulation prescribe: *Provided*, That as to part-time employees such leave shall be prorated on an hourly basis. The days of sick leave with pay provided for in this section shall mean days on which employees would otherwise work and receive pay and shall be exclusive of Saturdays, Sundays, holidays, and vacation periods authorized by the Board;

* * * * *

(As amended Oct. 25, 1968, Pub. L. 90-640, § 1, 82 Stat. 1363.)

REFERENCES IN TEXT

The reference in subsection (e) is obviously an error. The "fund" referred to in the subsection was created by section 5 of the act of Oct. 8, 1951, 65 Stat. 369, and is classified to section 31-1404.

AMENDMENT

1968—Section 1, act Oct. 25, 1968, Pub. L. 90-640, amended subsection (d) by striking out "at rates of pay to be fixed by said Board without reference to the Classification Act of 1949," and inserting in lieu thereof a period and the new sentence authorizing the Commissioner to fix and adjust from time to time the rates of pay of personnel as therein provided. The Classification Act of 1949 was repealed by act Sept. 6, 1966, Pub. L. 89-544 which reenacted its provisions as a part of title 5 U.S. Code.

EFFECTIVE DATE OF 1968 AMENDMENTS AND ENACTMENTS

Section 6(a), act Oct. 25, 1968, Pub. L. 90-640, provided: "The preceding sections of this Act [Amendments of sections 31-1402, 31-1404, 31-1405 and section 4 of the Act set out as a note to 31-1405 and section 5 of the Act set out as a note to 31-1402] shall become effective as of July 1, 1968."

RETROACTIVE PAY, GROUP INSURANCE AND REEMPLOYMENT PROVISIONS

Section 5, act Oct. 25, 1968, Pub. L. 90-640, provided: "Retroactive pay is authorized for the period beginning on February 11, 1968, and ending on the date on which adjustments in rates of pay are officially ordered by the Commissioner of the District of Columbia as a result of the enactment of this [Amendments of sections 31-1402, 31-1404 and 31-1405 and notes to sections 31-1402 and 31-1405]; but such retroactive pay shall be paid only—

(1) in the case of an individual in the service of the Board of Education of the District of Columbia (including service in the Armed Forces of the United States) on the date on which such adjustments in rates of pay are so ordered;

(2) to a former employee within the classes of employees whose pay is adjusted, by official order of the Commissioner of the District of Columbia as a result of the enactment of this [Amendments of sections 31-1402, 31-1404 and 31-1405 and notes to sections 31-1402 and 31-1405], who retired during the period beginning on February 11, 1968, and ending on the date on which such adjustments in rates of pay are so ordered, for services rendered during such period; and

(3) in accordance with subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts of deceased employees, for services rendered, during the period beginning on February 11, 1968, and ending on the date on which such adjustments in rates of pay are so ordered, by a former employee within the classes of employees whose pay is adjusted by official order of the Commissioner of the District of Columbia as a result of the enactment of this [Amendments of sections 31-1402, 31-1404, 31-1405 and notes to sections 31-1402 and 31-1405], who died during such period.

(b) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the government of the District of Columbia."

Section 6(b), act Oct. 25, 1968, Pub. L. 90-640, provided: "(b) For the purposes of determining the amount of insurance for which an individual is eligible under chapter 87 of title 5, United States Code, relating to group life insurance for Government employees, all adjustments in rates of pay, which are officially ordered by the Commissioner of the District of Columbia as a result of the enactment of this [Amendments of sections 31-1402, 31-1404, 31-1405 and notes to sections 31-1402 and 31-1405] and which become effective in any period prior to the date on which such adjustments in rates of pay are so ordered, shall be held and considered to become effective on the date on which such adjustments are so ordered."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1403. Service credit for retirement—Deposits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1404. Food services fund—Appropriation authorized—Revenues and receipts—To be permanent revolving fund—Expenditures.

* * * * *

The Food Services Fund shall be available for the payment of all expenses, other than personal services, necessary for the operation of the Department of Food Services, to the extent that appropriations, other than appropriations for personal services, are not available or are insufficient to pay such expenses in the fiscal year concerned. (As amended Oct. 25, 1968, Pub. L. 90-640, § 2, 82 Stat. 1363.)

REFERENCE IN TEXT

This section is erroneously referred to in section 31-1402 of this title as section 31-659. See Reference in Text note under section 31-1402.

AMENDMENT

1968—Section 2, act Oct. 25, 1968, Pub. L. 90-640, amended the last sentence to read as above set out. Prior to this amendment the sentence read as follows: "The Food Services Fund shall be available for the purchase of foods, supplies, and all other services and expenditures of whatever nature which are necessary for the conduct of the Department of Food Services, including personal services, the operation and maintenance of motor trucks, and the expenses of conducting the Office of Central Management."

EFFECTIVE DATE OF 1968 AMENDMENTS AND ENACTMENTS

Section 6(a), act Oct. 25, 1968, Pub. L. 90-640 provided: "The preceding sections of this Act [Amendments of sections 31-1402, 31-1404, 31-1405 and section 4 of the Act set out as a note to 31-1405 and section 5 of the Act set out as a note to 31-1402] shall become effective as of July 1, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1405. Appropriations authorized for payment of compensation and acquisition, maintenance and replacement of equipment.

Appropriations are authorized for the payment of compensation for all personal services necessary for the operation of the Department of Food Services and for the acquisition, maintenance, and replacement of equipment for use in that operation. (Oct. 8, 1951, 65 Stat. 369, ch. 448, title I, § 6; Sept. 2, 1958, 72 Stat. 1735, Pub. L. 85-901, § 1; Oct. 25, 1968, Pub. L. 90-640, § 3, 82 Stat. 1363.)

AMENDMENT

1968—Section 3, act Oct. 25, 1968, Pub. L. 90-640, amended section to read as above set out. The prior provision did not authorize appropriations for payment of compensation; contained provisions for reimbursement of the School Food Services Fund for lunches in certain cases. The section prior to this amendment is set out in the main edition.

EFFECTIVE DATE OF 1968 AMENDMENTS AND ENACTMENTS

Section 6(a), act Oct. 25, 1968, Pub. L. 90-640, provided: "The preceding sections of this Act [Amendments of sections 31-1402, 31-1404, 31-1405 and section 4 of the Act set out as a note to 31-1405 and section 5 of the Act set out as a note to 31-1402] shall become effective as of July 1, 1968."

USE OF UNOBLIGATED FUNDS

Section 4, act Oct. 25, 1968, Pub. L. 90-640, provided: "Unobligated funds, not to exceed \$148,000, appropriated to the general fund of the government of the District of Columbia for the fiscal year ending June 30, 1968, may be used to increase the compensation of employees in the Department of Food Services in the public schools of the District of Columbia, for the period beginning February 11, 1968, and ending June 30, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1406. Payment and deposit of cafeteria and lunchroom funds—Transfer of supplies and equipment—Time limitation—Payment of obligations after transfer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1408. Audits of accounts—Reports to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1407.

§ 31-1409. Distribution of commodities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1410.

Chapter 15.—SALARIES OF TEACHERS, SCHOOL OFFICERS AND OTHER EMPLOYEES

CHAPTER REFERRED TO IN U.S. CODE

This chapter is referred to in title 5 sections 5102, 5541 of the U.S. Code.

SUBCHAPTER I.—SALARY SCHEDULES

§ 31-1501. Salaries of teachers, school officers and other employees—Service steps.

The following are the salary schedules for teachers, school officers, and certain other employees of the Board of Education whose positions are included therein:

Salary class and group	Service step								
	1	2	3	4	5	6	7	8	9
Class 1..... Superintendent.	\$30,000								
Class 2..... Deputy superintendent.	26,000								
Class 3..... Assistant superintendent. President, teachers college.	19,320	\$19,780	\$20,240	\$20,700	\$21,160	\$21,620	\$22,080	\$22,540	\$23,000
Class 4..... Director, curriculum. Dean, teachers college. Executive assistant to superintendent.	16,400	16,800	17,200	17,600	18,000	18,400	18,800	19,200	19,600
Class 5: Group A, bachelor's degree..... Group B, master's degree..... Group C, master's degree plus 30 credit hours.... Group D, doctor's degree..... Chief examiner. Director, food services. Director, industrial adult education. Executive assistant to deputy superintendent.	15,260 15,960 16,310 16,660	15,640 16,340 16,690 17,040	16,020 16,720 17,070 17,420	16,400 17,100 17,450 17,800	16,780 17,480 17,830 18,180	17,160 17,860 18,210 18,560	17,540 18,240 18,590 18,940	17,920 18,620 18,970 19,320	18,300 19,000 19,350 19,700
Class 6: Group B, master's degree..... Principal, level IV..... Principal, level III..... Principal, level II..... Principal, level I..... Group C, master's degree plus 30 credit hours.... Principal, level IV..... Principal, level III..... Principal, level II..... Principal, level I..... Group D, doctor's degree..... Principal, level IV..... Principal, level III..... Principal, level II..... Principal, level I..... Assistant to assistant superintendent (elementary schools). Assistant to assistant superintendent (junior and senior high schools). Assistant to assistant superintendent (general research, budget, and legislation). Assistant to assistant superintendent (pupil personnel services). Assistant to assistant superintendent (industrial and adult education, vocational education, evening and summer school). Director, elementary education (supervision and instruction). Director, health, physical education, athletics, and safety. Director, special education. Principal, senior high school. Principal, junior high school. Principal, elementary school. Principal, vocational high school. Principal, Americanization school. Principal, boys' junior-senior high school. Principal, Capitol Page School. Principal, health school. Principal, laboratory school. Principal, veterans' high school.	15,540 15,540 15,040 14,540 14,040 15,890 15,890 15,390 14,890 14,390 16,240 16,240 15,740 15,240 14,740	15,910 15,910 15,410 14,910 14,410 16,260 16,260 15,760 15,260 14,760 16,610 16,610 16,110 15,610 15,110	16,280 16,280 15,780 15,280 14,780 16,630 16,630 16,130 15,630 15,130 16,980 16,980 16,480 15,980 15,480	16,650 16,650 16,150 15,650 15,150 17,000 17,000 16,500 16,000 15,500 17,350 17,350 16,850 16,350 15,850	17,020 17,020 16,520 16,020 15,520 17,370 17,370 16,870 16,370 15,870 17,720 17,720 17,220 16,720 16,220	17,390 17,390 16,890 16,390 15,890 17,740 17,740 17,240 16,740 16,240 18,090 18,090 17,590 17,090 16,590	17,760 17,760 17,260 16,760 16,260 18,110 18,110 17,610 17,110 16,610 18,460 18,460 17,960 17,460 16,960	18,130 18,130 17,630 17,130 16,630 18,480 18,480 17,980 17,480 16,980 18,830 18,830 18,330 17,830 17,330	18,500 18,500 18,000 17,500 17,000 18,850 18,850 18,350 17,850 17,350 19,200 19,200 18,700 18,200 17,700

Salary class and group	Service step								
	1	2	3	4	5	6	7	8	9
Class 7:									
Group B, master's degree.....	\$14, 070	\$14, 405	\$14, 740	\$15, 075	\$15, 410	\$15, 745	\$16, 080	\$16, 415	\$16, 750
Group C, master's degree plus 30 credit hours....	14, 420	14, 755	15, 090	15, 425	15, 760	16, 094	16, 430	16, 765	17, 100
Group D, doctor's degree.....	14, 770	15, 105	15, 440	15, 775	16, 110	16, 445	16, 780	17, 115	17, 450
Supervising director, elementary education (supervision and instruction).									
Supervising director, audiovisual instruction.									
Supervising director, adult education and summer school.									
Supervising director, subject field.									
Supervising director, reading clinic.									
Supervising director, athletics.									
Director, school attendance.									
Supervising director, curriculum.									
Director, elementary education.									
Director, elementary education (administration).									
Class 8:									
Group B, master's degree.....	13, 580	13, 905	14, 230	14, 555	14, 880	15, 205	15, 530	15, 855	16, 180
Group C, master's degree plus 30 credit hours....	13, 930	14, 255	14, 580	14, 905	15, 230	15, 555	15, 880	16, 205	16, 530
Group D, doctor's degree.....	14, 280	14, 605	14, 930	15, 255	15, 580	15, 905	16, 230	16, 555	16, 880
Dean of students, teachers college.									
Professor, teachers college.									
Registrar, teachers college.									
Statistical analyst.									
Assistant principal, senior high school.									
Assistant principal, junior high school.									
Assistant principal, elementary school.									
Assistant principal, vocational high school.									
Assistant principal, Americanization school.									
Assistant principal, health school.									
Class 9:									
Group A, bachelor's degree.....	12, 380	12, 695	13, 010	13, 325	13, 640	13, 955	14, 270	14, 585	14, 900
Group B, master's degree.....	13, 080	13, 395	13, 710	14, 025	14, 340	14, 655	14, 970	15, 285	15, 600
Group C, master's degree plus 30 credit hours....	13, 430	13, 745	14, 060	14, 375	14, 690	15, 005	15, 320	15, 635	15, 950
Group D, doctor's degree.....	13, 780	14, 095	14, 410	14, 725	15, 040	15, 355	15, 670	15, 985	16, 300
Assistant director, food services.									
Class 10:									
Group B, master's degree.....	12, 600	12, 900	13, 200	13, 500	13, 800	14, 100	14, 400	14, 700	15, 000
Group C, master's degree plus 30 credit hours....	12, 950	13, 250	13, 550	13, 850	14, 150	14, 450	14, 750	15, 050	15, 350
Group D, doctor's degree.....	13, 300	13, 600	13, 900	14, 200	14, 500	14, 800	15, 100	15, 400	15, 700
Assistant director, audiovisual instruction.									
Assistant director, subject field.									
Assistant director, adult education and summer school.									
Supervisor, elementary education.									
Class 11:									
Group B, master's degree.....	12, 180	12, 470	12, 760	13, 050	13, 340	13, 630	13, 920	14, 210	14, 500
Group C, master's degree plus 30 credit hours....	12, 530	12, 820	13, 110	13, 400	13, 690	13, 980	14, 270	14, 560	14, 850
Group D, doctor's degree.....	12, 880	13, 170	13, 460	13, 750	14, 040	14, 330	14, 620	14, 910	15, 200
Assistant director, practical nursing.									
Associate professor, teachers college.									
Chief librarian, teachers college.									
Class 12:									
Group B, master's degree.....	11, 680	11, 970	12, 260	12, 550	12, 840	13, 130	13, 420	13, 710	14, 000
Group C, master's degree plus 30 credit hours....	12, 030	12, 320	12, 610	12, 900	13, 190	13, 480	13, 770	14, 060	14, 350
Group D, doctor's degree.....	12, 380	12, 670	12, 960	13, 250	13, 540	13, 830	14, 120	14, 410	14, 700
Chief attendance officer.									
Clinical psychologist.									
Class 13:									
Group B, master's degree.....	10, 700	11, 050	11, 400	11, 750	12, 100	12, 450	12, 800	13, 150	13, 500
Group C, master's degree plus 30 credit hours....	11, 050	11, 400	11, 750	12, 100	12, 450	12, 800	13, 150	13, 500	13, 850
Group D, doctor's degree.....	11, 400	11, 750	12, 100	12, 450	12, 800	13, 150	13, 500	13, 850	14, 200
Assistant professor, teachers college.									
Assistant professor, laboratory school.									
Psychiatric social worker.									

Salary class and group	Service step							
	1	2	3	4	5	6	7	8
Class 14:								
Group A, bachelor's degree.....	\$8, 160	\$8, 505	\$8, 850	\$9, 195	\$9, 540	\$9, 885	\$10, 230	\$10, 575
Group B, master's degree.....	8, 860	9, 205	9, 550	9, 895	10, 240	10, 585	10, 930	11, 275
Group C, master's degree plus 30 credit hours....	9, 210	9, 555	9, 900	10, 245	10, 590	10, 935	11, 280	11, 625
Group D, doctor's degree.....	9, 560	9, 905	10, 250	10, 595	10, 940	11, 285	11, 630	11, 975
Coordinator of practical nursing.								
Census supervisor.								
Class 15:								
Group A, bachelor's degree.....	7, 000	7, 280	7, 560	7, 840	8, 120	8, 400	8, 750	9, 100
Group B, master's degree.....	7, 700	7, 980	8, 260	8, 540	8, 820	9, 100	9, 450	9, 800
Group C, master's degree plus 30 credit hours....	8, 050	8, 330	8, 610	8, 890	9, 170	9, 450	9, 800	10, 150
Group D, master's degree plus 60 credit hours or doctor's degree.....	8, 400	8, 680	8, 960	9, 240	9, 520	9, 800	10, 150	10, 500
Teacher, elementary and secondary schools.								
Attendance officer.								
Child labor inspectors.								
Counselor, placement.								
Counselor, elementary and secondary schools.								
Librarian, elementary and secondary schools.								
Librarian, teachers college.								
Research assistant.								
School social worker								
Speech correctionist.								
Instructor, teachers college.								
Instructor, laboratory school.								
School psychologist.								

Salary class and group	Service step					Longevity step	
	9	10	11	12	13	X	Y
Class 14:							
Group A, bachelor's degree.....	\$10,920	\$11,265	\$11,610	\$11,955	\$12,300	-----	-----
Group B, master's degree.....	11,620	11,965	12,310	12,655	13,000	-----	-----
Group C, master's degree plus 30 credit hours.....	11,970	12,315	12,660	13,005	13,350	-----	-----
Group D, doctor's degree.....	12,320	12,665	13,010	13,355	13,700	-----	-----
Coordinator of practical nursing.							
Census supervisor.							
Class 15:							
Group A, bachelor's degree.....	9,450	9,800	10,150	10,500	10,850	\$11,410	\$12,040
Group B, master's degree.....	10,150	10,500	10,850	11,200	11,550	12,110	12,740
Group C, master's degree plus 30 credit hours.....	10,500	10,850	11,200	11,550	11,900	12,460	13,090
Group D, master's degree plus 60 credit hours or doctor's degree.....	10,850	11,200	11,550	11,900	12,250	12,810	13,440
Teacher, elementary and secondary schools.							
Attendance officer.							
Child labor inspectors.							
Counselor, placement.							
Counselor, elementary and secondary schools.							
Librarian, elementary and secondary schools.							
Librarian, teachers college.							
Research assistant.							
School social worker.							
Speech correctionist.							
Instructor, teachers college.							
Instructor, laboratory school.							
School psychologist.							

(Aug. 5, 1955, 69 Stat. 521, ch. 569, title I, § 1; July 25, 1958, 72 Stat. 414, Pub. L. 85-552, § 1; Aug. 28, 1958, 72 Stat. 1004, Pub. L. 85-838, § 1; Sept. 13, 1960, 74 Stat. 913, Pub. L. 87-773, § 1; Oct. 24, 1962, 76 Stat. 1229, Pub. L. 87-881, title I, § 101(1); Aug. 14, 1964, 78 Stat. 431, Pub. L. 88-426, title III, § 306 (i) (5); Sept. 2, 1964, 78 Stat. 882, Pub. L. 88-575, title II, § 201(1); Nov. 13, 1966, 80 Stat. 1594, Pub. L. 89-810, title II, § 202(1); May 27, 1968, Pub. L. 90-319, § 2(1), 82 Stat. 132, eff. Oct. 1, 1967; May 27, 1968, Pub. L. 90-319, § 2(2), 82 Stat. 135, eff. July 1, 1968.)

CODIFICATION

Act July 18, 1966, Pub. L. 89-504, was the Federal Employees Salary Act of 1966. Section 108 (b), (c) and (d) of that act related to increase in compensation by administrative action. Pub. L. 90-83, which incorporates certain provisions of the above act into the new title 5, U.S.C., repeals the provisions of section 108 (b), (c) and (d), as executed, without prejudice to existing rights.

AMENDMENTS

1968—Section 2(1), act May 27, 1968, Pub. L. 90-319, amended the salary schedules generally, effective Oct. 1, 1967. Section 2(2) of the same act also amended the salary schedules generally as above set out, effective July 1, 1968.

RETROACTIVE COMPENSATION AND GROUP INSURANCE PROVISIONS OF ACT MAY 27, 1968, PUB. L. 90-319

Sections 3 and 4 of the act of May 27, 1968, provided:

SEC. 3. (a) Retroactive compensation or salary shall be paid by reason of this Act only in the case of an individual in the service of the Board of Education of the District of Columbia (including service in the Armed Forces of the United States) on the date of enactment of this Act, except that such retroactive compensation or salary shall be paid (1) to any employee covered in this Act who retired during the period beginning on October 1, 1967, and ending on the date of enactment of this Act, for services rendered during such period, and (2) in accordance with the provisions of subchapter VIII of chapter 55 of title 5, United States Code (relating to settlement of accounts of deceased employees), for services rendered during the period beginning on October 1, 1967, and ending on the date of enactment of this Act, by any such employee who dies during such period.

(b) For purposes of this section, service in the Armed Forces of the United States in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the

period provided by law for the mandatory restoration of such individual to a position in or under the municipal government of the District of Columbia.

SEC. 4. For the purpose of determining the amount of insurance for which an individual is eligible under the provisions of chapter 87 of title 5, United States Code (relating to Government employees group life insurance), all changes in rates of compensation or salary which result from the enactment of this Act shall be held and considered to be effective as of the date of the enactment of this Act.

SHORT TITLE

Section 1 of act May 27, 1968, Pub. L. 90-319, provided: "This Act [Amending §§ 31-691, 31-1501, 31-1522(c), 31-1532(a) (1), 31-1533(a), 31-1535(a), 31-1542(a) and enacting sections 3 and 4 set out as a note to § 31-1501], may be cited as the 'District of Columbia Teachers Salary Act Amendments of 1968'."

SALARY RATES FIXED BY ADMINISTRATIVE ACTION

For provisions of section 211 (b), (c), (d) of Act, Dec. 16, 1967, Pub. L. 90-206, see note to section 4-823.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-634, 31-635, 31-1511, 31-1512, 31-1521, 31-1522, 31-1531 to 31-1534, 31-1536, 31-1542, 31-1548.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 sections 8716, 8913 of the U.S. Code.

SUBCHAPTER III.—METHOD OF ASSIGNMENT OF EMPLOYEES TO SALARY SCHEDULES

§ 31-1521. Assignment of certain employees holding doctor's and master's degrees to salary classes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1511, 31-1531, 31-1533.

§ 31-1522. Types of positions to which chapter applies—Authority of Board to determine which positions meet established criteria and other matters—Teacher-aide positions—Initial assignment of school principal positions and periodic evaluation of duties and responsibilities.

* * * * *

(c) The Board of Education, with the concurrence of the Board of Commissioners of the District of Columbia, is authorized to establish a position which shall be designated "teacher-aide (noninstructional)". Such positions shall be classified, in accord-

ance with sections 5102 and 5106 of title 5, United States Code, at a grade not higher than GS-4, and shall be compensated in accordance with the General Schedule in section 5333(a)¹ of title 5, United States Code. The Board of Education shall prescribe minimum qualifications for appointment to such position. A person appointed to such position shall be a noninstructional employee, and his primary duty shall be to assist the instructional staff in tasks related to instruction.

* * * * *

(As amended May 27, 1968, Pub. L. 90-319, § 2(8), 82 Stat. 139.)

AMENDMENT

1968—Section 2(8), act May 27, 1968, Pub. L. 90-319, amended subsection (c) by striking out the third sentence and inserting in lieu thereof: "The Board of Education shall prescribe minimum qualifications for appointment to such positions", and by striking out the fifth sentence. For provisions of these struck sentences see main edition of the code.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(244) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners under subsection (b) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1511, 31-1531.

SUBCHAPTER IV.—METHOD OF ADVANCEMENT AND PROMOTION OF EMPLOYEES

§ 31-1531. Method of assignment to service steps—Promotion of employees.

(a) (1) On January 1, 1963, each permanent employee assigned to salary classes 2 through 15 in accordance with section 31-1501 and section 31-1521 shall be assigned to the same numerical service step on the schedule for his salary class, or salary class and group, under this chapter as he occupied on December 31, 1962, except that employees assigned to salary class 15 on January 1, 1963, who on December 31, 1962, were on service step 13 shall be assigned to service steps for their respective groups as follows: An employee who on January 1, 1963, has completed fifteen years of creditable service but less than eighteen years shall be assigned to longevity step X, and an employee who on January 1, 1963, has completed eighteen years of creditable service shall be assigned to longevity step Y. In determining years of creditable service for placement on serv-

ice steps, credit shall be given for previous service in accordance with the provisions of this chapter governing the placement of employees who are newly appointed, reappointed, or reassigned or who are brought under this chapter in accordance with the provisions of section 31-1522.

(2) Any teacher who was promoted from the salary class originally designated Salary Class 18 under this chapter (redesignated as Salary Class 15 by amendments effective on January 1, 1963 [act Oct. 24, 1962, Pub. L. 87-881]), if such promotion occurred after June 30, 1958, and prior to January 1, 1963, and who on the effective date of this paragraph occupies the same position to which he was promoted during such period shall be assigned to the numerical service step in his class, or class and group to which he would have been assigned had he been promoted on or after January 1, 1963.

(b) As soon as such reevaluation is completed for all employees involved, each such employee shall be assigned to the numerical service step for his salary class, or class and group, under this chapter next above the step corresponding to the number of his years of creditable service rendered prior to July 1, 1958, as determined by such re-evaluation, but no employee shall receive a salary above the top step for his class, or class and group, or below the step already occupied by him. If such re-evaluation places the employee on a higher numerical service step than the one already occupied by him he shall receive the full annual salary at the higher step for the year beginning July 1, 1958. Beginning on July 1, 1959, each permanent employee who has not yet reached the highest service step for his salary class, or class and group, under this chapter shall advance one such step each year until he reaches the highest step for his class, or class and group, except that each employee in salary class 15 shall advance from service step 13 to longevity step X on July 1 following the completion of fifteen years of creditable service; from longevity step X to longevity step Y on July 1 following the completion of eighteen years of creditable service: *Provided*, That beginning with the step increase normally due July 1, 1963, the Board of Education, on the written recommendation of the Superintendent of Schools, is authorized to deny any such salary advancement for the year immediately following any year in which the employee fails to receive a performance rating of "satisfactory" from his superior officer.

(c) The Superintendent of Schools, salary class 1, shall be assigned as of the date of his appointment as Superintendent to the salary step provided for that position in section 31-1501.

(d) Any permanent employee serving in a position which is not covered by this chapter but which may later be established under section 31-1522 shall be given service credit for the purpose of salary placement under this chapter equivalent to the number of years of satisfactory service rendered within the school system in the position then occupied by the employee, and shall be assigned to the numerical service step on the schedule for his class, or class and group, under this chapter next above the numerical service step corresponding to his years of creditable service in such position. If the employee has already

¹ So in original. The General Schedule is in 5 U.S.C. § 5332(a).

attained a service step in such position which is numerically as high or higher than the top service step provided for his salary class, or class and group, under this chapter, he shall be assigned to the highest service step provided for his class, or class and group, under this chapter. (Aug. 5, 1955, 69 Stat. 526, ch. 569, title IV, § 6; Aug. 28, 1958, 72 Stat. 1009, Pub. L. 85-838, § 1; Oct. 24, 1962, 76 Stat. 1233, Pub. L. 87-881, title I, § 101(5) (6); Sept. 2, 1964, 78 Stat. 885, Pub. L. 78-885, title II, § 201(2).)

AMENDMENTS

1964—Section 201(2) of act Sept. 2, 1964, amended section by designating subparagraph (a) as (a) (1), and by adding (a) (2) thereto.

1962—Section 101(5) of act Oct. 29, 1962, amended subsection (a) generally. Subsection (b) was amended, by section 101(6) of the same act, by striking the period at the end thereof and inserting the matter following the word "group" beginning with word "except" to the end of the paragraph.

1958—Act Aug. 28, 1958, amended the section generally and designated the provisions as subsecs. (a)—(d).

EFFECTIVE DATE OF ACT, SEPT. 2, 1964, TITLE II

Section 205 of act, Sept. 2, 1964, provided: "The provisions of this title [amending sections 31-1501, 31-729, 31-1531, and 31-1542] shall take effect on the first day of the first pay period beginning on or after July 1, 1964."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 103 of act Oct. 24, 1962, provided that: "Sections 101 [amending sections 31-1501, 31-1511, 31-1521, 31-1531, 31-1532, 31-1533, 31-1536, 31-1542, 31-1543, 31-1544 and 31-1545] and 102 [repealing section 31-1502] of this title shall take effect as of January 1, 1963."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by act Aug. 28, 1958, effective Jan. 1, 1958, see section 4(a) of act Aug. 28, set out as a note under section 31-1501.

CODIFICATION

This section is set out in this supplement in its entirety for the purpose of adding subsections (c) and (d) thereto. Subsections (c) and (d) were inadvertently omitted from the section in the 1967 edition of the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1533.

§ 31-1532. Assignment of new employees to service steps—Evaluation of past experience—Adjustment of salary steps of existing employees—Absence because of military or naval service.

(a) (1) Each employee who is newly appointed or reappointed to any position is salary class 3 to 15, inclusive, of the salary schedule in section 31-1501 shall be assigned to the service step numbered next above the number of years of service with which he is credited for the purpose of salary placement. The Board, on the written recommendation of the Superintendent of Schools, is authorized to evaluate the previous experience of each such employee to determine the number of years with which he may be so credited. Employees newly appointed, reappointed, or reassigned to any position in salary class 15 shall receive one year of such placement credit for each year of satisfactory service, not exceeding nine years, in the District of Columbia in salary class 15, or in any type of position covered in salary class 15 regardless of school level, in an educational system or recognized standing outside the District of Columbia public schools, as determined by the Board. Employees newly appointed, reappointed, or reassigned to any position in salary classes 3 to 14, inclusive, ex-

cept the positions of chief librarian and assistant professor, associate professor and professor, shall receive no placement credit for educational service or trade experience outside the District of Columbia public schools. Employees reappointed or reassigned to positions in salary classes 3 to 14, inclusive, shall receive one year of placement credit for each year of satisfactory service in the same salary class or in a position of equivalent or higher rank within the District of Columbia public schools, except that no such employee shall receive more than five years of placement credit for previous service rendered as a temporary employee within such system. Persons appointed to the position of shop teacher in the vocational education program shall receive one year of placement credit for each year of approved experience in the trades, as determined by the Board but not in excess of nine years for any combination of trade experience and educational service outside the school system. Employees newly appointed or reappointed to positions of assistant professor (salary class 13), chief librarian and associate professor (salary class 11), and professor (salary class 8) shall receive one year of placement credit for each year of satisfactory service, not in excess of five years, in a position of the same or higher rank in a college or university of recognized standing outside the District of Columbia public schools, as determined by the Board.

* * * * *

(As amended May 27, 1968, Pub. L. 90-319, § 2(3), 82 Stat. 138.)

AMENDMENT

1968—Section 2(3), act May 27, 1968, Pub. L. 90-319, amended the third sentence of subsection (a) (1) by striking out "the same type of position" and inserting in lieu thereof "any type of position covered in salary class 15".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of act May 27, 1968, Pub. L. 90-319, provided: "The amendments made by paragraphs (3) [31-1532(a) (1)], (4) [31-1533(a)], and (5) [31-1535(a)] of section 2 of this Act shall take effect on the first day of the first month beginning after the date of enactment of this Act" [May 27, 1968].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 31-1533, 31-1534.

§ 31-1533. Salary increases of probationary employees—Termination of employment.

(a) Each teacher, school officer, and other employee appointed or promoted on probationary tenure to a position or salary class covered by section 31-1501 shall receive his first increase in salary in that position or salary class on the beginning day of his second year of probationary service in the position or salary class; he shall receive his second increase in salary in that position or salary class on the date when his appointment or promotion to the position or salary class is made permanent; and he shall receive all subsequent increases in salary to which he is entitled in that position or salary class on July 1 of each year, beginning with the July 1 next after the date of his permanent appointment or promotion to the position or salary class in accordance with section 31-1531 and section 31-1532, except that beginning with any such step increase normally due subsequent to June 30, 1963, the Board of Education, on written recommendation of the

Superintendent of Schools, is authorized to deny any such increase in salary for the year immediately following any year in which the employee fails to receive a performance rating of "satisfactory" from his superior officer.

* * * * *

(As amended, May 27, 1968, Pub. L. 90-319, § 2(4), 82 Stat. 138.)

AMENDMENT

1968—Section 2(4), act May 27, 1968, Pub. L. 90-319, amended subsection (a) by inserting "or salary class" immediately after "position" each time the word appears in the subsection.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of act May 27, 1968, Pub. L. 90-319, provided: "The amendments made by paragraphs (3) [31-1532(a) (1)], (4) [31-1533(a)], and (5) [31-1535(a)] of section 2 of this Act shall take effect on the first day of the first month beginning after the date of enactment of this Act" [May 27, 1968].

§ 31-1535. Effective date of promotions to groups B, C and D—Assignment to numerical service steps.

(a) On and after the effective date of the District of Columbia Teachers' Salary Act Amendments of 1968, each promotion to group B, group C, or group D, within a salary class, shall become effective—

- (1) on the date of the regular Board meeting of the twelfth month prior to the date of approval of promotion by the Board, or
 - (2) on the effective date of the master's degree or doctor's degree or on the completion of thirty or sixty credit hours beyond the master's degree, as the case may be,
- whichever is later.

* * * * *

(As amended, May 27, 1968, Pub. L. 90-319, § 2(5), 82 Stat. 138.)

REFERENCE IN TEXT

District of Columbia Teachers' Salary Act Amendments of 1968, referred to in subsection (a) is the Act of May 27, 1968, Pub. L. 90-319, amending §§ 31-691, 31-1501, 31-1522 (c), 31-1532(a) (1), 31-1533(a), 31-1535(a), 31-1542(a) and enacting sections 3 and 4 set out as a note to § 31-1501.

AMENDMENT

1968—Section 2(5), act May 27, 1968, Pub. L. 90-319, amended subsection (a) to read as above set out. The amendment changed the reference to the D.C. Teacher's Salary Act Amendments of 1968, in lieu of 1966, and made the effective date of promotions as provided in clause (1) above set out.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of act May 27, 1968, Pub. L. 90-319, provided: "The amendments made by paragraphs (3) [31-1532(a) (1)], (4) [31-1533(a)], and (5) [31-1535(a)] of section 2 of this Act shall take effect on the first day of the first month beginning after the date of enactment of this Act" [May 27, 1968].

§ 31-1536. Promotions—Assignment to numerical service step.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1522.

SUBCHAPTER V.—ACCOMPANYING LEGISLATION

§ 31-1542. Evening, summer, and Americanization schools—Salaries—Expense-duty pay.

(a) The Board is authorized to conduct as part of its public school system the following: summer

school programs, extended school year programs, adult education school programs, and an Americanization school, under and within appropriations made by Congress. The pay for teachers, officers, and other educational employees in the summer school programs, adult education school programs, and veterans' summer high school centers shall be as follows:

"Classification	Per period		
	Step 1	Step 2	Step 3
Summer school (regular):			
Teacher, elementary and secondary schools; counselor, elementary and secondary schools; librarian, elementary and secondary schools; school social worker; speech correctionist; school psychologist; and instructor, District of Columbia Teachers College	\$6.00	\$6.66	\$7.37
Psychiatric social worker and assistant professor, District of Columbia Teacher College	7.02	7.79	8.62
Clinical psychologist	7.20	7.99	8.84
Associate professor, District of Columbia Teachers College	7.50	8.33	9.21
Assistant principal, elementary and secondary schools and professor, District of Columbia Teachers College	8.40	9.32	10.32
Supervising director	8.70	9.66	10.69
Principal, elementary and secondary schools	9.35	10.39	11.50
Veterans' summer school centers:			
Teacher	6.00	6.66	7.37
Adult education schools:			
Teacher	6.60	7.33	8.11
Assistant principal	9.24	10.26	11.35
Principal	10.30	11.44	12.65"

* * * * *

(As amended May 27, 1968, Pub. L. 90-319, § 2(6), 82 Stat. 138; May 27, 1968, Pub. L. 90-319, § 2(7), 82 Stat. 139.)

AMENDMENTS

1968—Section 2(6), act May 27, 1968, Pub. L. 90-319, amended subsection (a) including the salary schedules, effective Oct. 1, 1967, to read as set out in Pub. L. 90-319. Sec. 2(7) of the same act, effective July 1, 1968, amended subsection (a) including the salary schedules to read as above set out.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CROSS REFERENCE

For provisions relating to retroactive compensation and group insurance under Act May 27, 1968, Pub. L. 90-319, see note to section 31-1501.

Chapter 16.—PUBLIC HIGHER EDUCATIONAL INSTITUTIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 9-220.

SUBCHAPTER I.—FEDERAL CITY COLLEGE

- Sec.
- 31-1607. Federal City College considered established as a land-grant college.
- 31-1608. Lump sum appropriation in lieu of donation of public lands or land scrip.

Sec.

31-1609. Federal City College administered as a land-grant college—Appropriations—Allocations to Federal Extension Service of Department of Agriculture.

31-1610. Satisfaction of State requirement of consent.

SUBCHAPTER I.—FEDERAL CITY COLLEGE

§ 31-1601. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1602. Board of Higher Education—Composition—Appointment of members—Chairman—Tenure—Vacancies — Compensation — Removal — Immunity from liability.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1603. Powers and duties of Board—Development of plans, establishment of College, and administration, generally.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1605.

§ 31-1604. Space and facilities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1605. Fiscal accountability.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1607. Federal City College considered established as a land-grant college.

In the administration of—

(1) the Act of August 30, 1890 (7 U.S.C. 321-326, 328) (known as the Second Morrill Act),

(2) the tenth paragraph under the heading "EMERGENCY APPROPRIATIONS" in the Act of March 4, 1907 (7 U.S.C. 322) (known as the Nelson Amendment),

(3) section 22 of the Act of June 29, 1935 (7 U.S.C. 329) (known as the Bankhead-Jones Act),

(4) The Act of March 4, 1940 (7 U.S.C. 331), and

(5) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1629),

the Federal City College shall be considered to be a college established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (7 U.S.C. 301-305, 307, 308) (known as the First Morrill Act); and the term "State" as used in the laws and provisions of law listed in the preceding paragraphs of this section shall include the District of Columbia. (Nov. 7, 1966, Pub. L. 89-791, title I, § 107, as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 241.)

EFFECTIVE DATE

Section 2 of act June 20, 1968, Pub. L. 90-354, provided: "Sections 107 and 108 [31-1607, 31-1608 and amendment of 7 U.S.C. 329] of the District of Columbia Public Education Act (added by section 1 of this Act) shall take effect with respect to appropriations for fiscal years beginning after June 30, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1610.

§ 31-1608. Lump-sum appropriation in lieu of donation of public lands or land scrip.

In lieu of extending to the District of Columbia those provisions of the Act of July 2, 1862 (7 U.S.C. 301-305, 307, 308), relating to donations of public lands or land scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the District of Columbia the sum of \$7,241,706. Amounts appropriated under this subsection shall be held and considered to have been granted to the District of Columbia subject to those provisions of that Act applicable to the proceeds from the sale of land or land scrip. (Nov. 7, 1966, Pub. L. 89-791, title I, § 108(b); as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 241.)

CODIFICATION

The text of this section as above set out consists of subsection (b) of section 108 of the Act of June 20, 1968. Subsection (a) of the section is classified to 7 U.S.C. 329.

REFERENCE IN TEXT

"That Act" referred to in subsection (b), means the Act of July 2, 1862, set out as sections 301 to 305, 307 and 308 of title 7, U.S. Code.

EFFECTIVE DATE

See note under section 31-1607.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in note to section 1607.

§ 31-1609. Federal City College administered as a land-grant college—Appropriations—Allocations to Federal Extension Service of Department of Agriculture.

(a) In the administration of the Act of May 8, 1914 (7 U.S.C. 341-346, 347a-349) (known as the Smith-Lever Act)—

(1) the Federal City College shall be considered to be a college established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (7 U.S.C. 301-305, 307, 308); and

(2) the term "State" as used in such Act of May 8, 1914, shall include the District of Columbia, except that the District of Columbia shall not be eligible to receive any sums appropriated under section 7 U.S.C. 343.

(b) In lieu of an authorization of appropriations for the District of Columbia under section 7 U.S.C. 343, there is authorized to be appropriated to the District of Columbia such sums as may be necessary to provide cooperative agricultural extension work in the District of Columbia under such Act. For the fiscal years ending June 30, 1969, and June 30, 1970, sums appropriated under this subsection may be used to pay the total cost of providing such extension work; and for each fiscal year thereafter such sums may be used to pay no more than one-half of such cost. Any reference in such Act (other than section 7 U.S.C. 343) to funds appropriated under such Act shall in the case of the District of Columbia be considered a reference to funds appropriated under this subsection.

(c) Four per centum of the sums appropriated under subsection (b) for each fiscal year shall be allotted to the Federal Extension Service of the Department of Agriculture for administrative, technical, and other services provided by the Service in carrying out the purposes of this section. (Nov. 7, 1966, Pub. L. 89-791, title I, § 109; as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 241.)

REFERENCE IN TEXT

"Such Act" referred to in subsection (b) means the Act of May 8, 1914, set out in sections 341 to 346, 347a to 349 of title 7, U.S. Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1610.

§ 31-1610. Satisfaction of State requirement of consent.

The enactment of sections 31-1607 and 31-1609 of this title shall, as respects the District of Columbia, be deemed to satisfy any requirement of State consent contained in any of the laws or provisions of law

referred to in such sections. (Nov. 7, 1966, Pub. L. 89-791, title I, § 110; as added June 20, 1968, Pub. L. 90-354, § 1, 82 Stat. 242.)

SUBCHAPTER II.—WASHINGTON TECHNICAL INSTITUTE

§ 31-1621. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1623. Powers and duties of Board—Development of plans, establishment of Institute, and administration, generally.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 31-1625.

§ 31-1624. Space and facilities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 31-1625. Fiscal accountability

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 32.—ELEEMOSYNARY, CURATIVE, CORRECTIONAL, AND PENAL INSTITUTIONS

Chapter 2.—WASHINGTON HUMANE SOCIETY

§§ 32-201 to 32-204.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 32-207, 32-211.

§ 32-205. Police to arrest law violators at request of member of society—Evidence of membership.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 22-804, 22-809, 32-207, 32-211.

§§ 32-206, 32-207.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 32-207, 32-211.

§ 32-209. Commissioners to aid in enforcing laws affecting children—Detailing of police to assist society—Arrest of offenders—Children in house of ill-fame.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-210. Detailing of police to aid in enforcement of laws relating to cruelty to animals.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—HOSPITALS AND ASYLUMS—GENERAL PROVISIONS

§ 32-301. Private hospitals and asylums—To be licensed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

GRANTS AND LOANS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS

Pub. L. 90-457, act Aug. 3, 1968, 82 Stat. 631, section 1 provided: That this Act may be cited as the "District of Columbia Medical Facilities Construction Act of 1968".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS

SEC. 2. There are authorized to be appropriated for the fiscal year ending June 30, 1969, and for each of the next three fiscal years, such sums as may be necessary, not to exceed in the aggregate \$40,052,000, to enable the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the "Secretary"), to make grants to assist in meeting the cost of projects for the modernization of public or nonprofit private hospitals and in meeting the cost of projects for the construction or modernization of public health centers, long-term care facilities, including extended care facilities, diagnostic or treatment centers, rehabilitation facilities, facilities for the mentally retarded, and community mental health centers in the District of Columbia. Sums so appropriated shall remain available until expended.

LOANS FOR THE CONSTRUCTION OR MODERNIZATION OF HOSPITALS AND OTHER HEALTH FACILITIES

SEC. 3. (a) The Secretary may make loans to assist in meeting the cost of projects for the construction or modernization of any hospital or other facility referred to in section 2 of this Act. The Secretary may make a loan under this section only if he determines that the applicant for the loan is unable to obtain the amount of such loan for the project from other public or private sources at reasonable rates of interest. The amount of any loan made under this section may not exceed 50 per centum of the cost of the project for which the loan is sought.

(b) Any such loan may be made only on the basis of an application submitted to the Secretary in such form and containing such information and assurances as he may prescribe.

(c) Each such loan shall bear interest at the rate of 2½ per centum per annum on the unpaid balance thereof and shall be repaid over a period determined by the Secretary to be appropriate, but not exceeding 50 years.

(d) There is authorized to be appropriated \$40,575,000 to carry out the provisions of this section.

APPROVAL OF APPLICATIONS

SEC. 4. (a) An application for a grant or loan with respect to any project may be approved by the Secretary under this Act only if an application for a grant with respect to such project has been filed under a Medical Facilities Act (which for purposes of this Act means title VI of the Public Health Service Act or, where appropriate, title II or part C of title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963) and—

(1) has been approved under a Medical Facilities Act and the application filed under this Act is for additional funds in connection therewith, or

(2) has been denied under a Medical Facilities Act because insufficient funds are available from the allotments of the District of Columbia under the applicable Medical Facilities Act to permit approval of the application.

In determining whether to approve an application for a grant under Medical Facilities Act for any project in the District of Columbia, the availability of additional funds for such project under this Act shall be taken into consideration. Approval of such application may be made

contingent upon the approval of an application or applications with respect to such project under this Act and upon such additional funds being made so available.

(b) The Secretary shall establish criteria for determining the order in which to approve, under this Act, applications for grants and loans with respect to projects. Such criteria with respect to construction projects for the same type of facility (or for modernization projects) shall be the criteria developed by the State Agency of the District of Columbia pursuant to the State plan approved under the applicable Medical Facilities Act.

(c) In the case of any project with respect to which an application for a grant or loan is filed under this Act and with respect to which an application for a grant has been denied under a Medical Facilities Act, such application under this Act may be approved only if there is compliance with the same terms and conditions (including determination, in accordance with the applicable State plan, that the project is needed) as are applicable to applications for grants under the Medical Facilities Act, other than the availability of sufficient funds in the appropriate allotment of the District of Columbia.

(d) An application for a grant or loan under this Act with respect to any project may not be approved unless an opportunity to review the application has been afforded to a body, found by the Secretary to be a responsible metropolitan areawide planning body, and any recommendations of such body that were timely made have been considered by the appropriate State agency of the District of Columbia and have been submitted to the Secretary in connection with the application.

PAYMENTS

SEC. 5. (a) Payments under this Act with respect to any project shall be made in the manner provided under the applicable Medical Facilities Act for payment of the Federal share of the cost of projects for which applications are approved under such Act; except that payments under this Act shall also be subject to such reasonable conditions as the Secretary deems appropriate to safeguard the Federal interest.

(b) The total of the payments of grants made under this Act with respect to any project, together with any payments made with respect thereto under a Medical Facilities Act, may not exceed—

(1) in the case of a construction project for a long-term care facility, including extended care facilities, a diagnostic or treatment center, or a rehabilitation facility, 66⅔ per centum of the cost of such project; and

(2) in the case of any other project (including a modernization project), 50 per centum of the cost of such project.

RECOVERY OF PAYMENTS

SEC. 6. (a) Payments of grants under this Act shall be subject to recovery or recapture under the same conditions and to the same extent as is provided under the applicable Medical Facilities Act with respect to payments made thereunder.

(b) If, at any time before a loan made under this Act has been repaid in full, an event occurs for which (if a grant had been made under a Medical Facilities Act) recovery by the United States would be authorized, the unpaid balance of the loan shall become immediately due and payable by the applicant, and any transferee of the facility for which such loan was made shall be liable to the United States for such repayment.

MEANING OF TERMS

SEC. 6. The terms used in this Act shall have the same meaning as when used in the applicable Medical Facilities Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-302, 32-303, 32-305.

§ 32-302. Director of public health to enforce regulations—Inspection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-302, 32-303, 32-305.

§ 32-303. Penalties for violation of sections 32-301, 32-302 or regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-302, 32-305.

§ 32-304. Commissioners of the District of Columbia to make regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(245) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-302, 32-305.

§ 32-305. Prosecutions in municipal court.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-302.

§ 32-306. Smallpox hospital—Regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(246) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-308. Admission of pay patients to psychopathic ward of Gallinger Hospital.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(247) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-309. Admission of pay patients to contagious-disease ward of Gallinger Hospital.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(248) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-310. Admission of pay patients to Tuberculosis Hospital.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(249) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-312. Children's Tuberculosis Sanatorium—Construction and equipping authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-313. Admission of pay patients to Children's Tuberculosis Sanatorium.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(250) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-316. Providence and Garfield Memorial Hospitals to accept contagious-disease cases sent by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-322. Availability of appropriations to furnish medical services to non-indigent persons.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(251) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-323. Conveyance of property to Columbia Hospital.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-324, 32-325.

§ 32-324. Restriction on use of property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-323.

§ 32-326. Standards of indigency—Emergency patients.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(252) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the extent provided in par. 252, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-327. Volunteer services in connection with medical services in Health Department.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-328. Volunteer services in connection with Glenn Dale Tuberculosis Sanatorium.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-329. Volunteer services in connection with Gallinger Municipal Hospital and the Tuberculosis Hospital.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 4.—SAINT ELIZABETHS HOSPITAL

§ 32-401. Expense of indigent insane admitted to Saint Elizabeths Hospital from District of Columbia—Admission.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-404. Reimbursements on account of expenditures for care of insane to be credited to the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-408. Authorization to accept gifts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-409 to 32-411.

§ 32-409. Same—Custody and investment of gifts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-411.

§ 32-410. Same—Gifts of intangible personal property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-409.

§ 32-411. Same—Gifts of real property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 32-409, 32-410.

§§ 32-412 to 32-414.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 32-415, 32-416.

§ 32-415. Regulations—Approval of Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-416.

§ 32-416. Regulations relating to Board of Public Welfare—District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-415.

Chapter 5.—INDUSTRIAL HOME SCHOOL

§ 32-501. Control and management—Board of Public Welfare—Supplies—Disposition of income.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-503. Exchange of portion of Naval Observatory grounds for portion of Industrial Home School site—Sale of balance of tract—Use of land if not sold—Funds available for new school site.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 6.—DISTRICT TRAINING SCHOOL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 21-1102.

§ 32-601. Authority to acquire site, erect buildings for home and school—Title to land—Property under jurisdiction of Commissioners of the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 21-1101, 32-602.

§ 32-602. Control and supervision—Board of Public Welfare—Name.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 21-1101.

§ 32-604. Rules and regulations to be prescribed—Annual reports—Inventory.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(253) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-605. Superintendent—Appointment and qualifications.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 7B.—PLACEMENT OF CHILDREN IN FAMILY HOMES

§ 32-782. Child-placing agency—License.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-783. Appointment of supervisory committee by Commissioners—Composition and tenure—Chairman—Promulgation of rules and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(254) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-790.

§ 32-784. Application for license—Form—Investigation by Board—Provisional license—Term and renewal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-782.

§ 32-785. Persons authorized to place children—Custody, control, supervision, and visitation by agency—Confidential records.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-785a. Agreements with child placement agencies outside of the District—Authority of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-786. Agency vested with parental rights—Consent to adoption—Adoption petition—Parents' relinquishment of rights—Recordation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1161, 16-304, 30-306.

§ 32-787. Revocation of license of child-placing agency—Notice—Retirement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-790. Compensation for services in connection with child placement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 502 of the Plan, set out in the appendix to title 1.

§ 32-791. "Commissioners" defined—Delegation of functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 8.—NATIONAL TRAINING SCHOOL FOR BOYS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 32-907.

§ 32-801. Name.

CROSS REFERENCE

Federal Youth Corrections Act, applicability to the District, see 18 U.S.C. 5024, 5025.

§ 32-803. One Commissioner of District to be trustee.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-808. Superintendent and other employees—Appointment—Compensation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-811.

§ 32-813. Report by officers to Commissioners of District—Contents.

TRANSFER OF FUNCTIONS TO COMMISSIONERS

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-821. Board of Trustees authorized to parole—Attorney General.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-820.

Chapter 9.—NATIONAL TRAINING SCHOOL FOR GIRLS

HISTORICAL NOTE

The act of July 31, 1953, Pub. L. 173, 67 Stat. 286, gave authorization for the National Training School for Girls to be known as the Industrial Home for Colored Girls. The same act authorized the construction of a new Industrial Home School for Colored Children near Laurel, Maryland. The act of July 1, 1954, Pub. L. 468, 68 Stat. 385, authorized the Industrial Home School for Colored Girls to be combined with and become a part of the Industrial Home School for Colored Children and finally the act of September 4, 1957, Pub. L. 85-285, authorized the disposition of "so much of the land of the United States reserved for a site for the National Training School for Girls by the act of July 14, 1892 (27 Stat. 165)." The compilers are informed that the present institution is located at Laurel, Maryland, and is known as the D.C. Children's Center.

§ 32-902. Authority of Board of Public Welfare—Powers—Property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-904. By-laws, rules, and regulations—Release of girls.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (255) of Reorg. Plan No. 3, of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-905. Officers and employees—Appointment—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-908. Girls committed—Commitment by court or judge.

REFERENCES IN TEXT

The reference in this section to "section 11-909 and 11-910", which had reference to such sections as set out in the 1961 edition of the official D.C. Code, may be a typographical error, as § 11-909 thereof related to summons, notice, and custody of a child pursuant to the initiation of proceedings in the Juvenile Court, and § 11-910 thereof related to service of such summons. Therefore, they do not appear to be relevant with respect to the exception clause in which they are cited in this section.

In the official D.C. Code of 1929, in which this section was set out as § 218 of Title 8, the reference in the exception clause was to §§ 258 and 259 of Title 18 of that Code, which sections represented classifications of §§ 8 and 9, respectively, of the Juvenile Court Act of 1906. Section 8 of that Act (D.C. Code 1929, Title 18, § 258) prescribed the jurisdiction of the Juvenile Court of the District of Columbia, and § 9 thereof (D.C. Code 1929, Title 18, § 259) contained definitions, including the definition of "delinquent" children. After the general amendment of the Juvenile Court Act of 1906 by the Act of June 1, 1938, ch. 309, 52 Stat. 596, the said jurisdictional and definitive provisions of §§ 8 and 9 of the 1906 Act, were covered, with substantial changes, by §§ 5 and 6 thereof, which, in the 1940, 1951 and 1961 editions of the Code, were classified to §§ 11-906 and 11-907; and said §§ 8 and 9 of the 1906 Act, as so amended, then relating to summons, etc., as mentioned above, were classified in those Codes to said §§ 11-909 and 11-910.

All of the sections mentioned above were repealed in the revision and reenactment of Part II of the D.C. Code by Act Dec. 23, 1963, Pub. L. 88-241, 77 Stat. 478, eff. Jan. 1, 1964. Sections 11-906 and 11-907, containing, respectively, definitions and the jurisdictional provisions, are now covered by §§ 11-1551, 11-1553, 11-1554, 11-1556, 11-1557, 11-1583 and 16-2301; and §§ 11-909 and 11-910

(which, as stated above, appear to be irrelevant with respect to the exception clause in this section in which they are cited) are now covered by §§ 16-2303 and 16-2304.

Chapter 10.—MISCELLANEOUS

§ 32-1001. Visitation of charities supported in whole or in part by District revenues by Commissioners of the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-1002. Visitorial power of Commissioners over certain designated organizations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-1003. Appropriations for charitable and reformatory institutions to be lien on property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 32-325.

§ 32-1006. Voluntary medical service for charitable institutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 32-1009. Sale of products of Home for Aged and Infirm.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (256) of Reorg. Plan 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 32-1010. Admission of pay patients to Home for Aged and Infirm.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (257) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

TITLE 33.—FOOD AND DRUGS

Chapter 1.—ADULTERATION

§ 33-104. Rules and regulations for collecting and examining drugs and food—Director of public health.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(258) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to the preparation of rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 33-111. Special services for detection of adulteration.

CONTINUATION OF 1960 ACT

Section 15 of the District of Columbia Appropriations Act of Nov. 13, 1967, Pub. L. 90-134, 81 Stat. 441, provided in part:

"Except as otherwise provided herein, limitations and legislative provisions contained in the District of Columbia Appropriation Act, 1961, shall be continued for the fiscal year 1968." Similar provisions are contained in the following appropriation act:

1970—Dec. 24, 1969, Pub. L. 91-155, § 15, 83 Stat. 433.

1969—Aug. 10, 1968, Pub. L. 90-473, § 15, 82 Stat. 700.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—MILK, CREAM, AND ICE CREAM

§ 33-301. Production, transportation, and sales—Restriction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-302. Dairy requirements—Permit—Application details—Certificate of soundness of cattle—"Person" defined—Application for permit to be acted upon within 30 days if practicable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-315 to 33-319.

§ 33-303. Suspension of permit—Statement of reasons—Notice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302, 33-304 to 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-304. Interstate shipments of milk or cream into District for ice cream permitted if conforming to State law requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302, 33-303, 33-305 to 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-305. Permit revocable for refusal to permit inspections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-304, 33-306, 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-306. Milk, cream, and ice cream to be seized if brought to District illegally—Owner to be notified of seizure—Destruction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-305, 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-307. Rules and regulations to protect supply—Publication.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(259) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-306, 33-312, 33-313, 33-315 to 33-319.

§§ 33-308 to 33-311.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-312. Permit holder to report communicable disease in himself, family, or dairy employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-313, 33-315 to 33-319.

§ 33-313. Definitions and standards of different classes of milk, cream, and ice cream—Health tests.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-315 to 33-319.

§ 33-314. Milk, cream, or ice cream not to be sold or offered for sale that does not comply with requirements—All containers of milk or cream shall have grade plainly printed thereon.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315 to 33-319.

§ 33-315. Pasteurization to be done under regulations of director of public health.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(260) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing regulations under which milk and cream shall be pasteurized, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-316 to 33-319.

§ 33-316. Penalty for interfering with director of public health.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315, 33-317 to 33-319.

§ 33-317. Names of shippers to be posted in receiving station—Record of shipments kept—Reports to director of public health.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(261) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315, 33-316, 33-318, 33-319.

§ 33-318. Milk and cream to be received only from licensed shippers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315 to 33-317, 33-319.

§ 33-319. Penalties—Prosecution.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-302 to 33-307, 33-312, 33-313, 33-315 to 33-317, 33-318.

Chapter 4.—NARCOTIC DRUGS

§ 33-401. Definitions.

REFERENCES IN TEXT

The section of the Internal Revenue Code of 1954, referred to in text is classified to 26 U.S.C. 4731.

NOTES TO DECISIONS

Constitutionality

Statutes which made it unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug and which defined narcotic drug as including marijuana were constitutional. *S. V. Scott v. United States* (1968, 395 F. 2d 619, 129 U.S. App. D.C. 396).

§ 33-402. Acts declared unlawful.

NOTES TO DECISIONS

Acquittal on appeal

Court of Appeals, on reversing convictions for narcotic vagrancy, maintaining common nuisance, and possession of narcotics, for failure of evidence to show that defendants had in their possession more than trace of heroin, would not remand for new trial, where there was no showing that government had additional proof that actual amounts involved were more than mere traces that

were actually usable or saleable as narcotics. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

Concurrent sentences

Where defendants received concurrent sentences in prosecution for possession of narcotics, possession of implements of crime, unlawful entry and narcotics vagrancy and evidence was sufficient to support conviction of possession of narcotics and possession of implements of crime, District of Columbia Court of Appeals would not pass upon sufficiency of evidence to support other convictions. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Constitutionality

Statutes which made it unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any narcotic drug and which defined narcotic drug as including marijuana were constitutional. *S. V. Scott v. United States* (1968, 395 F. 2d 619, 129 U.S. App. D.C. 396).

Custodial interrogation

Questions addressed to three defendants by arresting officers seeking an explanation for defendants' being in condemned house were noncoercive and not "custodial interrogation" within rule of *Miranda v. State of Arizona*. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Duty to arrest

When police detectives saw narcotics paraphernalia in possession of defendants, officers were under statutory duty to arrest offenders immediately. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Evidence—Admissibility of

Where defendants' arrest for narcotics violations was legal, narcotics paraphernalia seized at time of the arrest was properly admitted in defendants' joint trial for narcotics violations. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Redirect examination

In prosecution for violations of federal narcotics laws, where on cross-examination of government's expert chemist, the defense elicited the fact that heroin is actually a morphine derivative, and that morphine can be legally imported into the United States, permitting witness on redirect to testify that in his opinion the narcotics involved were produced outside the United States was not improper on grounds that question was beyond qualifications of witness, since defense counsel's initial voyage into area of drug's source permitted full exploration by the government. *R. E. Green v. United States* (1967, 383 F. 2d 199, 127 U.S. App. D.C. 272).

Seizure of "means and instrumentality"

Narcotics paraphernalia is not the fruit of a crime, a weapon, or property the mere possession of which constitutes a crime; it is, however, the "means and instrumentality" by which narcotics may be illegally used, so that it is within exception permitting lawful seizure of certain articles even though not described in search warrant. *R. M. Edelin v. United States* (D.C. App. 1967, 227 A. 2d 395).

Hypodermic needle, syringe, bent spoon usable as a narcotics "cooker" and tissue paper, all wrapped in a stocking and found under pillow on bed, were an apparent narcotics user's "kit" and were the "means and instrumentality" by which narcotics might be illegally used, so that seizure of such paraphernalia under warrant authorizing seizure of check writing machine and undetermined number of blank checks was valid under exception permitting instrumentalities and means by which a crime is committed to be seized even though not described in search warrant, and such evidence was not subject to suppression in narcotics prosecution. *Id.*

Sufficiency of evidence

Absence of any proof that defendants had in their possession more than trace of heroin or that such trace could be used or dispensed as narcotic required reversal of con-

victions for narcotic vagrancy, maintaining common nuisance, and possession of narcotics. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

Where there is only trace of substance, a chemical constituent not quantitatively determined because of minuteness, and there is no additional proof of its usability as narcotic, there can be no conviction under statute making it illegal for person to maintain place resorted to by drug addicts for purpose of using narcotic drugs or used for illegal keeping or sale of same. *Id.*

Sufficiency of evidence of possession

Where there is only a trace of substance, a chemical constituent not quantitatively determined because of minuteness, and there is no additional proof of its usability as a narcotic, there can be no conviction for unlawful possession of a narcotic. *R. M. Edlin v. United States* (D.C. App. 1967, 227 A. 2d 395).

Evidence that microscopic chemical analysis of narcotics paraphernalia disclosed traces of heroin was insufficient, in absence of any additional proof as to usability of traces as a narcotic, to show illegal possession of a narcotic drug. *Id.*

Warning of constitutional rights

The case was remanded to determine whether defendant who was convicted of possession of implements of crime had been warned of his constitutional rights by arresting officers before he made incriminating statements. *W. J. Johnson v. United States* (D.C. App. 1969, 255 A. 2d 494).

§ 33-403. Manufacturers and wholesalers—License required.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-404.

§ 33-405. Use of official written orders.

REFERENCES IN TEXT

Section 4702 of the Internal Revenue Code of 1954, referred to in text is classified to 26 U.S.C. 4702.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(262) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-410.

§ 33-406. Sale on written orders—Vendees—"Lawful possession" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-407, 33-410, 33-413.

§ 33-408. Sales by apothecaries.

REFERENCES IN TEXT

Section 4705(c)(2) of the Internal Revenue Code of 1954, referred to in text is classified to 26 U.S.C. 4705.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-410.

§ 33-409. Professional use of narcotic drugs—Return of unused drugs.

REFERENCES IN TEXT

Section 4705(c)(2) of the Internal Revenue Code of 1954, referred in text is classified to 26 U.S.C. 4705.

§ 33-410. Preparations exempted—Conditions—Paregoric.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-411, 33-420.

§ 33-414. Search warrants—Requirements—Form—Contents—Return—Penalty for interfering with service.

NOTES TO DECISIONS

Delay in execution

Under this section which provides that the warrant command the search "forthwith" and that the warrant must be executed within 10 days after its date, delay within 10-day limitation does not, standing alone, vitiate warrant. *W. J. Johnson v. United States* (D.C. App. 1969, 255 A. 2d 494).

Since prejudice was not claimed by reason of failure to execute search warrant until six days after its issuance, the delay did not vitiate the warrant and did not require suppression of evidence obtained pursuant to the warrant. *Id.*

§ 33-416. Common nuisances.

NOTES TO DECISIONS

Prejudicial error

In a trial involving the owner of a rooming house for permitting marijuana to be smoked on his premises, it was not prejudicial error to a quash subpoena ad testificandum for a material defense witness who was awaiting trial on charges relating to the very transactions to which he would be requested to testify in owner's trial where trial court was familiar with evidence to which witness was to testify and witness' attorney had informed court that witness would invoke privilege against self-incrimination if he were called to testify. *D. G. Harris v. United States* (D.C. App. 1969, 255 A. 2d 489).

§ 33-416a. Vagrancy—Narcotic drug user—Penalties—Conditions imposed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

NOTES TO DECISIONS

Acquittal on appeal

Court of Appeals, on reversing convictions for narcotic vagrancy, maintaining common nuisance, and possession of narcotics, for failure of evidence to show that defendants had in their possession more than trace of heroin, would not remand for new trial, where there was no showing that government had additional proof that actual amounts involved were more than mere traces that were actually usable or saleable as narcotics. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

Concurrent sentences

Where defendants received concurrent sentences in prosecution for possession of narcotics, possession of implements of crime, unlawful entry and narcotics vagrancy and evidence was sufficient to support conviction of possession of narcotics and possession of implements of crime, District of Columbia Court of Appeals would not pass upon sufficiency of evidence to support other convictions. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Constitutionality

This section which defines as a vagrant any unemployed narcotic user or who has been convicted as a narcotic offender without lawful and visible means of support who is found in public place and fails to give good account of himself did not enable citizens of ordinary intellect to distinguish wrong from right and was unconstitutional. *H. M. Ricks and J. N. Williams v. United States* (1968, 414 F. 2d 1111, — U.S. App. D.C. —).

The Court is not at liberty to ignore shortcomings of statutory language, or rationalize its validity, simply on basis of methods associated with its administration. *Id.*

This section which was vague and indefinite could not be rendered constitutional by the unpublicized scope limitations which its enforcement plan espouses. *Id.*

Since under the Narcotics Vagrancy and General Vagrancy Statutes anyone using street for a lawful business in a lawful manner may do so without restriction, statutes are not an unreasonable restriction on freedom of movement in violation of due process clause of Fifth Amendment. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1111, — U.S. App. D.C. —).

Convictions for violation of Narcotics Vagrancy and General Vagrancy Statutes were not invalid on ground that defendants were being punished solely for their status as vagrants. *Id.*

Convictions of defendants for violation of Narcotics Vagrancy and General Vagrancy Statutes on proof showing defendants' associations with known narcotics users and prostitutes did not violate Eighth Amendment's prohibition against cruel and unusual punishment despite claim that there was an absence of any overt criminal act. *Id.*

Construction

When an individual is unable to give a good account to police when wandering at late and unusual hours and is associated with criminals or narcotics addicts and is not lawfully employed, these factors, together with others enumerated in statutes, constitute probable cause for arrest for vagrancy. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1111, — U.S. App. D.C. —).

Vagrancy statutes were not invalid on ground that they were "catch-alls" used when other crimes could not be proven or that they allegedly required a lesser quantum of proof to convict. *Id.*

Word "loitering" as used in Narcotics Vagrancy and General Vagrancy Statutes was not unconstitutionally vague, particularly where additional conditions were necessary to constitute offense. *Id.*

Reference to "failure to give a good account" as used in Narcotics Vagrancy and General Vagrancy Statutes restricts rather than enlarges application of statutes and allows suspected vagrant to dissipate probable cause by satisfactorily explaining his conduct, and the arresting officer is not the only one who must evaluate account given by person questioned. *Id.*

Narcotics Vagrancy and General Vagrancy Statutes delineate with specificity what vagrancy is, and the definitions are neither numerous nor susceptible to widely divergent interpretations. *Id.*

Custodial interrogation

Questions addressed to three defendants by arresting officers seeking an explanation for defendants' being in condemned house were noncoercive and not "custodial interrogation" within rule of *Miranda v. State of Arizona*. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Duty to arrest

When police detectives saw narcotics paraphernalia in possession of defendants, officers were under statutory duty to arrest the offenders immediately. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

Elements of offense

Presence of narcotics is not essential element of common nuisance offense when addicts are shown to frequent premises for purpose of using narcotics, but there can be no conviction for maintaining place used for illegal keeping or sale of narcotics without also showing that such drugs were or had been kept on premises. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

Evidence—admissibility

Where defendants' arrest for narcotics violations was legal, narcotics paraphernalia seized at time of the arrest was properly admitted in defendants' joint trial for nar-

cotics violations. *S. Keith, R. L. Payne and T. J. Walker v. United States* (D.C. App. 1967, 232 A. 2d 92).

— Sufficiency

Evidence was insufficient to support conviction for violation of Narcotics Vagrancy Statute. *N. Baker v. United States* (D.C. App. 1967, 228 A. 2d 323).

Government's burden of proof

To prove violation of statute making it illegal for any person to keep or maintain any place resorted to by drug addicts for purpose of using narcotic drugs or used for illegal keeping or sale of same, government must show either that addicts resort to such premises for use of narcotics or that premises are maintained or used for illegal sale, use or possession of narcotics. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

In absence of proof of contemporaneous use, conviction for narcotic vagrancy necessitates additional showing of presence of quantity of narcotics sufficient to be used or dispensed, not mere immeasurable trace. *Id.*

Prior convictions

One can be found guilty of violating either Narcotics Vagrancy Statute or the General Vagrancy Statute without having been previously convicted. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1111, — U.S. App. D.C. —).

Both the Narcotics Vagrancy Statute and General Vagrancy Statute employ separate paragraphs which disjunctively set up criteria amounting to vagrancy and both require factors, other than prior convictions, which conjunctively amount to violation, so that prior convictions are not essential to all subsections of the statutes. *Id.*

Prior convictions of accused are admissible in prosecution for violation of vagrancy statutes. *Id.*

Narcotics Vagrancy and General Vagrancy Statutes do not improperly require presentation and proof of prior convictions, and do not deny due process and fair trial. *Id.*

Probable cause for arrest

Arrest for vagrancy without warrant was justified under evidence, including testimony of experienced police officers that they had observed defendant in company of known prostitutes and narcotics violators on four occasions during two nights, defendant's warrantless arrest for vagrancy was not without probable cause. *J. L. Worthy v. United States* (1968, 409 F. 2d 1105, — U.S. App. D.C. —).

Purpose of statute

A course of conduct rather than an overt act is prohibited by the Narcotics Vagrancy and General Vagrancy Statutes. *H. M. Ricks and J. N. Williams v. United States; H. M. Ricks v. District of Columbia* (D.C. App. 1967, 228 A. 2d 316; rev'd 414 F. 2d 1111, — U.S. App. D.C. —).

Purpose of Narcotics Vagrancy and General Vagrancy Statutes is to prevent crimes which may likely flow from the vagrant's mode of life. *Id.*

Search

Although it is incident to an arrest for vagrancy the search was not for that reason required to be limited to a frisk. *J. L. Worthy v. United States* (1968, 409 F. 2d 1105, — U.S. App. D.C. —).

Sufficiency of evidence

Absence of any proof that defendants had in their possession more than trace of heroin or that such trace could be used or dispensed as narcotic required reversal of convictions for narcotic vagrancy, maintaining common nuisance, and possession of narcotics. *L. Marshall and K. Watkins v. United States* (D.C. App. 1967, 229 A. 2d 449).

Where there is only trace of substance, a chemical constituent not quantitatively determined because of minuteness, and there is no additional proof of its usability as narcotics, there can be no conviction under statute making it illegal for person to maintain place resorted to by drug addicts for purpose of using narcotic drugs or used for illegal keeping or sale of same. *Id.*

§ 33-417. Forfeiture by unlawful possession—Disposition.

REFERENCES IN TEXT

Section 4733 of the Internal Revenue Code of 1954, referred to in text is classified to 26 U.S.C. 4733.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-711.

§ 33-421. Prosecution—Burden of proof on defendant of any exception, excuse, proviso, exemption.

NOTES TO DECISIONS

Government's burden of proof

Part of government's prima facie case in prosecution for unlawful possession of narcotics is to prove that a substance in defendant's possession is proscribed as a narcotic drug under the statutory scheme of narcotics control. *R. M. Edelin v. United States* (D. C. App. 1967, 227 A. 2d 395).

§ 33-422. Enforcement—Employees of Board of Pharmacy—Salaries—Cost of forms.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 33-423. Penalties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—MEATS AND MEAT PRODUCTS

§ 33-501. Horse meat and horse meat products—Labeling or marking—Notification to consumer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-502, 33-503.

§ 33-502. Same—Director of public health to make regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402 (263) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-501, 33-503.

§ 33-503. Same—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-501, 33-502.

Chapter 7.—REGULATION AND CONTROL OF CERTAIN DRUGS OTHER THAN NARCOTICS

§ 33-701. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(264) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (1)(C) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 33-702. Prohibited acts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-704, 33-710.

NOTES TO DECISIONS

Amendment of information

Granting government's motion to amend information, after presentation of all evidence and after government had rested its case, to read "make or utter" rather than "make and utter" a forged prescription for purpose of obtaining dangerous drug did not change nature of offense or charge additional violation and constituted proper exercise of judicial discretion. *G. D. Bobrow v. United States* (D.C. App. 1967, 225 A. 2d 311).

Basis for search warrant

Quantitatively, the information in support of a search warrant in narcotics case must be that from which a reasonable man could conclude that there probably are illicit paraphernalia on the premises to be searched. Logically this is less evidence than that required to convict. *United States v. J. D. Kuch* (1969, 301 F. Supp. 965).

§ 33-703. Drugs exempted.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(265 and 266) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (1) and (2) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-702.

§ 33-704. Exemption of persons.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-701, 33-702, 33-705.

§ 33-705. Records.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 33-702, 33-706.

§ 33-706. Inspection.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 33-702.

§ 33-707. Regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(267) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

TITLE 34.—HOTELS AND LODGING-HOUSES

Chapter 1.—RIGHTS AND LIABILITIES

§ 34-101. Hotel proprietors and innkeepers furnishing safe and giving notice not liable for injury to guests' property—When value exceeds \$500—Liability for certain retained property.

NOTES TO DECISIONS

"Guest" defined

Hotel patron who had stated to hotel desk clerk in the morning that she was checking out but would leave her belongings in the room until 3:00 P.M. until check-out time and was told that this was permissible and who discovered at about 2:30 P.M. that her fur coat was

missing from the room was a "guest" of the hotel at the time of the loss, and the common-law doctrine of *infra hospitium* was applicable. *Hotel Corporation of America v. The Travelers Indemnity Company* (D.C. App. 1967, 229 A. 2d 158).

§ 34-103. Lien of boarding-house and innkeepers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 34-104.

§ 34-105. Enforcement of lien by bill in equity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 38-209.

TITLE 35.—INSURANCE

Chap.	Sec.
17. Insurance Placement.....	35-1701

Chapter 1.—INSURANCE DEPARTMENT— GENERAL PROVISIONS

§ 35-101. Department of Insurance created—Superintendent of Insurance—Subject to supervision of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-902, 35-1202.

§ 35-102. Duties of Superintendent—Copy of charters to be filed—Foreign companies to file power of attorney—Service of process—Superintendent to make rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(268) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-201, 35-1202.

§ 35-103. Annual statements—Statement to be published in newspaper.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-105, 35-1202.

§§ 35-104, 35-105.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 35-1202.

§ 35-106. Superintendent to make annual report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1202.

§§ 35-107, 35-108.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 35-1202.

Chapter 2.—PROVISIONS APPLICABLE TO MORE THAN ONE KIND OF INSURANCE

SUBCHAPTER I.—GENERAL PROVISIONS

§ 35-201. Life and fire insurance companies to maintain reinsurance reserves—Suspension of license upon impairment of capital stock—Penalty for acting for unlicensed company—Superintendent may make examination to determine impairment in capital, or insolvency.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1201, 35-1202.

§ 35-202. Health, accident, and life insurance companies defined—Assets and capital stock required—Amount of policies—Taxation—Reports to Superintendent of Insurance—Examination by Superintendent of Insurance—Appeal to Commissioners—Fraternal beneficial and certain other organizations exempt.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(269) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing rules and regulations for the hearing of appeals, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1103, 35-1202.

§ 35-203. Copy of application to be delivered with policy—Statements in application as defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1002, 35-1202.

§ 35-204. Principal office to be in District of Columbia—Keeping and removing of records—Reincorporation of companies chartered by special acts—Penalties—Prosecutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1202.

§ 35-205. Compensation insurance regulations—Facts to be filed with Superintendent of Insurance—Approval required—Withdrawal of approval—Petition for review—Time for filing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1202, 35-1611.

SUBCHAPTER II.—DOMESTIC STOCK INSURANCE COMPANIES

§ 35-222. Rules and regulations—Revocation or suspension of certificate—Notice and hearing—Penalties—Exemption of certain companies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(418) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) with respect to promulgating rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-223. Registration requirements of beneficial owners, directors, etc.—Sales restriction—Definition—Exemption—Rules and regulations—Penalty—Effective date of section.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(419 to 421) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in Pars. 419 to 421, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-224. Preservation of Commissioners' authority—Delegation of functions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—LIFE INSURANCE—DEFINITIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415 to 35-418, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

§ 35-302. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 4.—DEPARTMENT OF INSURANCE WITH RESPECT TO LIFE COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415 to 35-417, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

§ 35-401. Insurance department—Superintendent of Insurance—Oath—Bond—Assistants—Seal—Sealed instruments as evidence—Annual report—Attendance at conventions—Visits—Expenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 35-403. Refunds of excess in fees, charges, or taxes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 35-407. Annual statement—Verification—Failure to make.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(270) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to publication in a daily newspaper,

to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-419, 35-541.

§ 35-409. Deceptive statements prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-410.

§ 35-410. Contents of advertisements of alien companies—Penalty for violation.

Every advertisement or public announcement and every sign, circular, or card issued by an alien company doing business in the District, representing its financial standing shall exhibit as capital stock and assets only the capital stock and assets held by its United States branch, the liabilities, including therein the premium and loss reserves required by law, and the amount of surplus, and shall correspond to the next preceding verified statement made by such company to the superintendent: *Provided, however,* That this section shall not be deemed to prevent an alien company from furnishing to its policyholders in the District of Columbia its annual report to policyholders of its domicile. This paragraph shall not apply to an alien company which maintains in the United States as required by law, assets held in trust for the benefit of the United States policyholders in an amount not less than the sum of its required capital deposit and the amount of its outstanding liabilities arising out of its insurance transactions in the United States.

Any violation of this section or section 35-409 shall be a misdemeanor, and any person convicted of such violation shall, for the first offense, be liable to a fine of not more than \$500, and for each subsequent offense shall be liable to a fine of not more than \$1,000. (June 19, 1934, 48 Stat. 1132, ch. 672, Ch. II, § 11; Dec. 5, 1963, 77 Stat. 347, Pub. L. 88-193, § 2; Sept. 7, 1966, 80 Stat. 705, Pub. L. 89-559, § 1; Aug. 8, 1968, Pub. L. 90-467, § 1, 82 Stat. 662.)

AMENDMENT

1968—Act Aug. 8, 1968, Pub. L. 90-467, amended the first paragraph adding thereto the last sentence above set out beginning with the words "This paragraph shall not apply to an alien company etc.,".

§ 35-414. False statements in application for insurance.

NOTES TO DECISIONS

Material misrepresentation

A misstatement in an application for an insurance policy, to be material to the hazard assumed, must be shown in some way to have affected it or contributed to the loss, and in a substantial manner. *L. Haubner a/k/a etc. v. Aetna Life Insurance Co.* (D.C. App. 1969, 256 A. 2d 414).

The court held that it is clear that the facts suppressed by the life insurance applicant concerning her consultations with and examinations by physicians prior to time she applied for policy and her previous history of cancer affected in a substantial manner the hazard assumed by insurer and would certainly have influenced insurer's decision to insure her, and such false statements by insured were material to issuance of the policy. *Id.*

Insured's failure to reveal information to the life insurer that she was consulting with physicians at time of policy application and that she had previous history of cancer constituted sufficient cause to justify insurer's refusal to pay proceeds of policy. *Id.*

Waiver of misrepresentation

Even if life insurer's doctor knew or should have known that tumor causing removal of breast in 1953 was malignant and that recurrence of malignancy in the future was a definite possibility, this did not operate as a waiver by the insurer of a defense based on false statements allegedly contained in an application for life insurance policy, where applicant concealed information, concerning present consultations, that was clearly material to issuance of life insurance policy. *L. Haubner a/k/a etc. v. Aetna Life Insurance Co.* (D.C. App. 1969, 256 A. 2d 414).

§ 35-416. Custody of general deposits—Collection of income—Substitution of securities—Required securities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-415.

§ 35-419. Superintendent may take possession of property of company and conduct its business—Conditions precedent—Procedure—Injunction—Resumption of possession by company—Order for liquidation—Appointment of deputies—Expense of liquidation—Bond—Annual report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(271) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making and prescribing rules and regulations, as provided in the penultimate par. of the section, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-425. General agent, agent, solicitor—License required—Application—Contents—Applicant vouched for by company—Placement of excess or rejected risks—Expiration and renewal of license—Officers and traveling salaried employees excepted—Notice of termination of employment—Information privileged.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(272) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars specified in par. 272, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1336, 47-1591.

§ 35-426. Suspension or revocation of license—Grounds for—Hearing—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1611.

§ 35-427. Appeal from rulings of superintendent—Procedure—Costs and supersedeas bond—Liability of superintendent.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-712 to 35-714, 35-426, 35-428.

§ 35-428. Brokers—License—Application—Contents—Person vouched for—Examination—Issuance—Effect of revocation—Appeal from refusal to issue—Renewal annually—Penalty for violation.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(273) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars specified in par. 273, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-432. Appeal from superintendent to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—DOMESTIC LIFE COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415, 35-417, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

§ 35-519. Conversion of a stock life company into a mutual life company—Plan for acquisition of capital stock—Conditions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(274) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing rules and regulations governing inspectors of elections, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-526. Liability of directors—Objections to be filed.

NOTES TO DECISIONS

Claim for "ultra vires" act as part of derivative action

An alleged cause of action charging that the president and director of a corporation is personally liable for participating in "ultra vires" act to the detriment of the corporation and for being pecuniarily interested in corporate transactions in violation of statute should be

maintainable as part of a derivative action. *G. E. Johnson et al. v. American General Insurance Company et al.* (1969, 296 F. Supp. 802).

§ 35-530. Officers and directors not to be pecuniarily interested in transactions—Appraisal—Loans on policies.

NOTES TO DECISIONS

Claim for "ultra vires" act as part of derivative action

An alleged cause of action charging that the president and director of a corporation is personally liable for participating in "ultra vires" act to the detriment of the corporation and for being pecuniarily interested in corporate transactions in violation of statute should be maintainable as part of a derivative action. *G. E. Johnson et al. v. American General Insurance Company et al.* (1969, 296 F. Supp. 802).

Construction

District of Columbia statute providing that a director or officer of an insurance company doing business in the district shall not receive any money or valuable thing for negotiating any loan from the company or be pecuniarily interested in any such loan is regulatory and is intended to secure fiduciary relationship from being utilized in a manner which might give rise to conflict of interest and is not intended to punish one who violates the statute, hence the rule of strict construction of criminal statute is to be relaxed. *A. F. Jordan v. Acacia Mutual Life Insurance Co., et ano.* (1969, 409 F. 2d 1141, — U.S. App. D.C. —; rev'g 283 F. Supp. 766).

Inasmuch as statute prohibiting director or officer of life insurer from obtaining loan from insurer provided that any person violating statute should be guilty of misdemeanor, statute must be treated as a penal statute. *Acacia Mutual Life Insurance Co., et ano. v. A. F. Jordan Sup't etc.* (1968, 283 F. Supp. 766; rev'd and remanded 409 F. 2d 1141).

Portion of section of District of Columbia Code to effect that no director or officer of any life insurer doing business in district shall receive any money or valuable thing for negotiating, procuring, recommending or aiding in any loan from such insurer was intended to bar director or officer from receiving any compensation, such as broker's commission, for procuring a loan to be made and to prevent director or officer from borrowing any money from insurer while he was director or officer. *Id.*

Eligibility of borrower to become director or officer

Under District of Columbia statute providing that a director or officer of any insurance company doing business in the district shall not receive any money or valuable thing for negotiating any loan from the company or be pecuniarily interested in any such loan, a person who is interested as principal in a loan from the insurance company is barred from becoming a director even though his interest in the loan arose prior to his becoming a director. *A. F. Jordan v. Acacia Mutual Life Insurance Co., et ano.* (1969, 409 F. 2d 1141, — U.S. App. D.C. —; rev'g 283 F. Supp. 766).

Person who had borrowed money from District of Columbia insurance company was eligible to become member of board of directors or officer of company while loan was outstanding. *Acacia Mutual Life Insurance Co., et ano. v. A. F. Jordan Sup't etc.* (1968, 283 F. Supp. 766; rev'd and remanded 409 F. 2d 1141).

Section of District of Columbia Code banning director or officer of any insurer from being pecuniarily interested, either as principal, coprincipal, agent or beneficiary in any purchase by, or sale to, insurer or any loan from insurer relates to transaction of lending money and does not apply to status of loan and is not effective during entire period when loan is in existence. *Id.*

§ 35-535. Investment of funds of domestic companies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-510, 35-541.

§ 35-540. Unlawful acquisition by company of its own capital stock.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-535.

§ 35-541. Variable contracts—Separate accounts—Assets of accounts to equal obligations for variable payments—Issuance by foreign companies—Standards of qualification—Reports—Regulations—Investment limitations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL
Section 402(275) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (f) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 6.—FOREIGN AND ALIEN LIFE COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS
This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415, 35-417, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

Chapter 7.—PROVISIONS RELATING TO ALL LIFE INSURANCE COMPANIES

CHAPTER REFERRED TO IN OTHER SECTIONS
This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415 to 35-417, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

§ 35-701. Superintendent to value policies — Legal standard of valuation.

TRANSFER OF FUNCTIONS TO COMMISSIONER
Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 35-519, 35-721.

§ 35-703. Standard provisions required in life insurance policies.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 35-705a, 35-705c.

§ 35-705a. Nonforfeiture benefits and cash surrender values.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 35-703, 35-723.

§ 35-705b. Standard nonforfeiture law.

(e) Any cash surrender value and any paid-up nonforfeiture benefit, available under any such policy in the event of default in the payment of any premium due at any time other than on the policy anniversary, shall be calculated with allowance for

the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (b), (c), and (d) may be calculated upon the assumption that any death benefit is payable at the end of the policy or contract year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (b), additional benefits payable (i) in the event of death or dismemberment by accident or accidental means, (ii) in the event of total and permanent disability, (iii) as reversionary annuity or deferred reversionary annuity benefits, (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and (vi) as other policy benefits additional to life insurance and endowment benefits and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(June 19, 1934, ch. 672, ch. V, § 5b, as added Feb. 19, 1948, 62 Stat. 30, ch. 66, § 4, and amended June 27, 1960, 74 Stat. 228, Pub. L. 86-530, § 2; Oct. 3, 1962, 76 Stat. 712, Pub. L. 87-738, § 2.)

CODIFICATION
Subsection (e) of this section is set out in this supplement to correct a typographical error in clause (v) thereof, as it appears in the main volume.

TRANSFER OF FUNCTIONS TO COMMISSIONER
Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in sections 35-701, 35-703, 35-705a, 35-705c, 35-723.

§ 35-705c. Loan provisions in policies.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-703.

§ 35-710. Group life insurance.

(1) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the

employer or trustees. No policy may be issued which provides term insurance on any employee which together with any other term insurance under any group life-insurance policy or policies issued to the employers or any of them or to the trustees of a fund established in whole or in part by the employers or any of them exceeds \$20,000 unless 150 per centum of the annual compensation of a covered employee, exceeds \$20,000, in which event all such insurance shall not exceed \$40,000, or 150 per centum of such annual compensation, whichever is less.

* * * * *

(June 19, 1934, 48 Stat. 1164, ch. 672, ch. V, § 10; July 2, 1940, 54 Stat. 726, ch. 518; July 12, 1950, 64 Stat. 330, ch. 457, § 1; July 5, 1960, 74 Stat. 315, 316, Pub. L. 86-579, §§ 1-5; Sept. 14, 1961, 75 Stat. 519, Pub. L. 87-249, § 1; Oct. 23, 1962, 76 Stat. 1131, Pub. L. 87-855, §§ 1, 2; Sept. 20, 1966, 80 Stat. 821, Pub. L. 89-594, § 1.)

CODIFICATION

Paragraph (1)(d) of this section is set out in this supplement to correct a typographical error therein, as it appears in the main volume.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-711, 35-1604.

§ 35-711. Standard provisions for policies of group life insurance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-710.

§ 35-712. Individual Accident and Sickness Policy Provisions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(276) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections 3(f) and the proviso in 8, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1332.

Chapter 8.—LIFE INSURANCE—PENALTIES—TESTIMONY—SEPARABILITY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35-301, 35-302, 35-405, 35-412, 35-415, 35-417, 35-426, 35-428, 35-431, 35-503, 35-508, 35-511, 35-513, 35-518 to 35-523, 35-528, 35-529, 35-534, 35-540, 35-601, 35-602, 35-709, 35-719, 35-801 to 35-803.

Chapter 9.—FRATERNAL BENEFIT ASSOCIATIONS

§ 35-901. Definition—When disability payable—Reserves—To whom benefits payable—Exemption from general insurance laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-902, 35-903, 35-906 to 35-911, 35-913 to 35-917, 35-1202.

§ 35-902. Existing associations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901, 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-903. Nonresident associations—Conditions precedent to doing business in District—Right of superintendent to examine.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901, 35-902, 35-906 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§§ 35-904, 35-905.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-906. Permit to do business from Superintendent of Insurance—Fee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-907 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-907. Organization—Procedure—Certificate of declaration—Recording—Corporate powers—Trustees, directors, or managers—Election—Quorum.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906, 35-908, 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-908. Reincorporation of associations existing prior to January 1, 1902.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906, 35-907, 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-909. Incorporation of subordinate bodies—Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-908, 35-911, 35-913 to 35-917, 35-1202.

§ 35-910. Contract invalid if beneficiary to pay assessments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-911. Benefits exempt from attachment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-913 to 35-917, 35-1202.

§ 35-912. Meetings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-917, 35-1202.

§ 35-913. Fraudulent representations—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-914 to 35-917, 35-1202.

§ 35-914. Neglect to report—Effect—Injunction—Penalty for violating injunction.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913, 35-915 to 35-917, 35-1202.

§ 35-915. Acting without authority—Misdemeanor—"Transact business"—"Doing business" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913, 35-914, 35-916, 35-917, 35-1202.

§ 35-916. Associations for profit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-915, 35-917, 35-1202.

§ 35-917. Associations or individuals using name of previously existing corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-202, 35-901 to 35-903, 35-906 to 35-909, 35-911, 35-913 to 35-916, 35-1202.

JUVENILE FRATERNAL ACT

§ 35-918. Fraternal benefit society may issue insurance and annuities upon lives of children—Branches for children.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-921.

§ 35-919. Contributions—How computed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-920, 35-921.

§ 35-920. Reserves.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-921.

SEPARATION OF INSURANCE AND FRATERNAL ACTIVITIES

§ 35-922. Separation of insurance and fraternal activities authorized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-923, 35-924, 35-926, 35-927.

§ 35-923. Certificate to be filed with Superintendent of Insurance—Contents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922, 35-924, 35-926, 35-927.

§ 35-924. Approval and certificate of Superintendent—Recordation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922, 35-923, 35-926, 35-927.

§ 35-925. Division of activities and property—Directors of insurance activities—Number and selection—Policies as evidence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922 to 35-924, 35-926, 35-927.

§ 35-926. Original corporation not dissolved—Subject to supervision as mutual legal reserve life insurance corporation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922 to 35-924, 35-927.

§ 35-927. Contracts not impaired—Right of repeal and amendment reserved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922 to 35-924, 35-926.

§ 35-928. Insurance laws of States and District applicable.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-922 to 35-924, 35-926, 35-927.

Chapter 11.—MARINE INSURANCE

§ 35-1101. Conditions of policies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1102, 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1002. Validity of policy—Good faith of insured material element—Unsound health as defense.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128, 35-1129 to 35-1132, 47-1806.

§ 35-1103. Incontestability of policy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101, 35-1102, 35-1104 to 35-1106, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1104. Assignment of policy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1105. Beneficiary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§§ 35-1106, 35-1107.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 35-1101, to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1108. Taxes—Underwriting profits—Computation of premiums earned on marine insurance contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1109 to 35-1111, 35-1114 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1109. Statement for taxation purposes—Computation of tax by Superintendent of Insurance—Statement of taxes to be mailed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1110 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1110. Taxation on earnings on reserves for unpaid loss and unexpired insurance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1112, 35-1114 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1111. Taxes on investment income from funds representing capital stock and surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1112, 35-1114 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1112. Report to include all items necessary to enable Superintendent of Insurance to compute tax—Notification of amount of tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1113. Taxation in lieu of license fees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114 to 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 35-1202, 47-1806.

§ 35-1114. Report upon cessation of marine insurance business—Taxes and license fees to be paid after such cessation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128, 35-1129 to 35-1132, 47-1806.

§ 35-1115. Penalty for failure to report or pay taxes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1116. Syndicate "B" exempt from taxes and fees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1117. Insurance companies not exempt from payment of Federal income tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1118. Investment of assets of domestic companies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§§ 35-1119, 35-1120.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1121. Establishment of foreign connections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1122. Corporations engaged exclusively in writing insurance in foreign countries may organize in District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1123. Prohibition of unauthorized insurance—Licensing of brokers in certain cases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, to 35-1126, 35-1128 to 35-1132, 47-1806.

§ 35-1124. Superintendent of insurance may issue license to agent or broker to solicit marine insurance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121 to 35-1123, 35-1126, 35-1128 to 35-1132, 47-1806.

§ 35-1125. Holder of license to maintain office in District of Columbia and to keep book of records—Contents—Superintendent of Insurance may inspect such record—Data secured by Superintendent to be confidential.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121 to 35-1124, 35-1126, 35-1128 to 35-1132, 47-1806.

§ 35-1126. License to furnish bond.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121 to 35-1125, 35-1128 to 35-1132, 47-1806.

§ 35-1127. Keeping of classified records.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1132, 47-1806.

§ 35-1128. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1129 to 35-1132, 47-1806.

§ 35-1129. Production of incriminating evidence compellable—Immunity of witness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128, 35-1130 to 35-1132, 47-1806.

§ 35-1130. Clerical assistance and departmental expenses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128, 35-1129, 35-1131, 35-1132, 47-1806.

§ 35-1131. Separability of provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1130, 35-1132, 47-1806.

§ 35-1132. Right to amend or repeal reserved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1101 to 35-1103, 35-1105, 35-1108, 35-1109, 35-1111, 35-1114, 35-1115, 35-1117, 35-1118, 35-1121, 35-1122, 35-1124, 35-1128 to 35-1131, 47-1806.

Chapter 12.—INSURANCE AGENTS OTHER THAN LIFE

§ 35-1201. Insurance agents to secure licenses—Commissions to unlicensed agents prohibited—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-105, 35-201, 35-1202.

§ 35-1202. Fraternal associations exempt under this chapter—Employment of solicitors and license fees therefor—Industrial insurance may be carried on—Industrial insurance license—Penalty for soliciting without license.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-105, 35-201.

Chapter 13.—FIRE, CASUALTY, AND MARINE INSURANCE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 35-1501, 35-1502.

SUBCHAPTER I.—FIRE, CASUALTY, AND MARINE INSURANCE, GENERALLY

§ 35-1303. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1401.

§ 35-1304. Records of Insurance Department—Power to make rules.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(277) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 35-1305. Certificate of authority—Necessity for—Expiration—Requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1303, 35-1318, 35-1323.

§ 35-1306. Revocation and suspension of certificate of authority—Grounds for—Notice and hearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1409, 35-1509, 35-1611.

§ 35-1311. Annual statement—Time for filing—Extension of time—Verification—Blanks to be furnished—Form and modification of blanks—Publication of statement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1330.

§ 35-1313. Examinations—Production of books and papers—Expenses—False statements, reports, or entries—Penalties—Foreign or alien companies, acceptance of examinations made by other authorities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1303.

§ 35-1315. Limitation of risk—Reinsured risks excluded from computations—Workmen's compensation, employers' liability, marine or inland marine risks excluded.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1305.

§ 35-1316. Capital and surplus, minimum requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 26-301, 35-1305.

§ 35-1317. Existing companies, application of act—Capital and surplus requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1328, 35-1329.

§ 35-1324. Lloyd's organizations—Requirements—Limitation of risk—Surplus—Filing copy of power of attorney—Annual statement—Verification.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1323.

§ 35-1327. Process, service upon foreign or alien companies by service on Superintendent—Force and effect—Registered letter to company—Proof of service—Penalty for failure to designate attorney for service of process.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1317, 35-1326.

§ 35-1328. Names of mutual or reciprocal companies—Requirements—Exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1317.

§ 35-1336. Agents and brokers, license—Form of application—Request by company or agent, form and contents—Bond of brokers—Written examination—Requirements for license—Waiver of examination—Issuance to individuals or firms—License for own business prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1339, 35-1345.

§ 35-1339. Renewal of licenses—Written notice of refusal to renew—Hearing—Application to court for leave to continue business pending appeal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1365.

§ 35-1340. Revocation and suspension of licenses—Grounds for—Notice and hearing—Evidence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1336, 35-1339, 35-1409, 35-1509, 35-1611.

§ 35-1342. Exemption from license—Sale of accident insurance in railroad ticket offices, common carriers—Travel bureau—Business of ocean marine insurance, insurance covering railroad property and other common carriers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1335.

§ 35-1343. Agents prohibited from representing unauthorized companies—"Companies" defined—Penalties—Civil liability—Exceptions—Prosecution.

Except as provided in section 35-1344, no person shall act as agent in the District for any company which is not authorized to do business in the District, nor shall any person directly or indirectly negotiate for or solicit applications for policies of, or for membership in, any company which is not authorized to do business in the District. The term "company" as used in this section shall include any association, society, company, corporation, joint-stock company, individual, partnership, trustee, or receiver engaged in the business of assuming risks of insurance, surety, or indemnity, and any Lloyd's organization, assessment, or cooperative fire company, or any reciprocal or interinsurance exchange, and any company, association, or society, whether organized for profit or not, conducting a business, including any of the principles or features of insurance, surety, or indemnity. Any person who violates any provision of this section upon conviction shall be fined not less than \$100 nor more than \$1,000 for each offense, or be imprisoned for not more than twelve months, or both, and any such person shall be personally liable to any resident of the District having claim against any such unauthorized company under any policy which said person has solicited or negotiated, or has aided in soliciting or negotiating: *Provided*, That the provisions of this section shall not apply to any person who negotiates with an unauthorized company for policies covering his own property or interests, nor shall the provisions of this section apply to the officers, agents, or representatives of any company which is in process of organization under the laws of the District, and which is authorized temporarily to solicit or secure memberships or applications for policies for the purpose of completing such organization. Prosecutions for violations of this section shall be upon information filed in the District of Columbia Court of General Sessions by the corporation counsel or any of his assistants. (Oct. 9, 1940, 54 Stat. 1080, ch. 792, Ch. II, § 39; Feb. 22, 1958, 72 Stat. 26, Pub. L. 85-334, § 10; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1.)

CODIFICATION

This section is set out in this supplement to correct an inadvertent omission in the text and to supply a credit line likewise inadvertently omitted.

§ 35-1344. License to write policy in unauthorized company when no authorized company available—Taxation—Reports, form and contents—Revocation or refusal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1343.

§ 35-1345. License fees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1339, 35-1344.

§ 35-1347. Penalties not otherwise prescribed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1363, 35-1611.

§ 35-1348. Appeal from Superintendent to Commissioners—Time for—Hearing on appeal—Effect of Commissioners' decision.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1365, 35-1403, 35-1612.

§ 35-1349. Court proceedings—Superintendent not liable for costs, damages, or to give supersedeas bond.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 35-1339, 35-1348, 35-1365, 35-1403, 35-1510, 35-1612.

SUBCHAPTER II.—INSURANCE PREMIUM FINANCE COMPANIES

§ 35-1365. Revocation and suspension of licenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 35-1367. Power to make rules.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 14.—REGULATION OF FIRE INSURANCE RATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 35-1502.

§ 35-1403. Adjustment of rates—Powers and duties of Superintendent—Removal of discriminations—Appeal from Superintendent's rulings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 35-1404. Organization of rating bureau—Membership—Powers and duties—Apportionment of expenses.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(278) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 278, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 15.—REGULATION OF CASUALTY AND OTHER INSURANCE RATES

§ 35-1503. Making of rates.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-1504.

§ 35-1504. Supervision of rates.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-1503.

§ 35-1505. Cooperative and concerted action authorized.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-1506.

§ 35-1508. Authority and duty of Superintendent.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(279) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 279, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 16.—CREDIT LIFE, ACCIDENT, AND HEALTH INSURANCE

§ 35-1604. Amount of credit life insurance and credit accident and health insurance.

* * * * *

(c) Notwithstanding subsections (a) and (b), the amount of any credit life insurance or credit accident and health insurance with respect to indebtedness incurred to defray educational costs of a student may include the part of a commitment that has not been advanced by the creditor. (Sept. 25, 1962, 76 Stat. 581, Pub. L. 87-686, § 4; Sept. 20, 1966, 80 Stat. 821, Pub. L. 89-594, § 2.)

CODIFICATION

Subsection (c) is set out in this supplement to correct a typographical error therein as it appears in the main volume.

§ 35-1605. Term of credit life insurance and credit accident and health insurance.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-1606.

§ 35-1608. Refunds.

SECTION REFERRED TO IN OTHER SECTIONS
This section is referred to in section 35-1605.

§ 35-1612. Judicial review.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 17.—INSURANCE PLACEMENT

- Sec.
- 35-1701. Declaration of purpose.
 - 35-1702. Definitions.
 - 35-1703. Industry placement facility.
 - 35-1704. Fair access to insurance requirements.
 - 35-1705. Joint Underwriting Association.
 - 35-1706. Examination by Commissioner.
 - 35-1707. Waiver of liability.
 - 35-1708. Annual reports by Joint Underwriting Association.
 - 35-1709. Appeals.
 - 35-1710. Reimbursement for reinsurance provided under National Insurance Development Program.
 - 35-1711. Delegation.

§ 35-1701. Declaration of purpose.

The purposes of this chapter are—

(1) to assure stability in the property insurance market for property located in the District of Columbia;

(2) to assure the availability of basic property insurance as defined by this chapter;

(3) to encourage maximum use, in obtaining basic property insurance, of the normal insurance market provided by authorized insurers; and

(4) to provide for the equitable distribution among insurers of the responsibility for insuring qualified property in the District of Columbia for which insurance cannot be obtained through the normal insurance market and to authorize the establishment of a joint underwriting association in the District of Columbia to provide for reinsuring of basic property insurance without regard to environmental hazards.

(Aug. 1, 1968, Pub. L. 90-448, § 1202, title XII, 82 Stat. 567.)

SHORT TITLE

Section 1201, act Aug. 1, 1968. Pub. L. 90-448, provided: "This title [This chapter and section 11-742(a) (12)] may be cited as the 'District of Columbia Insurance Placement Act.'"

CROSS REFERENCE

National Insurance Development Program, see title XII of the National Housing Act, as added by sec. 1103, Pub. L. 90-448, sections 1749 bbb et seq., title 12 U.S. Code.

§ 35-1702. Definitions.

As used in this chapter, unless the context otherwise requires—

(1) The term "Commissioner" means the Commissioner of the District of Columbia or his designated agent.

(2) The term "basic property insurance" means

(1) insurance against direct loss to property caused

by perils as defined and limited in the standard fire policy and extended coverage endorsement thereon, as approved by the Commissioner, and (2) such other insurance (including insurance against the perils of vandalism, malicious mischief, burglary, theft, and robbery) as the Commissioner may designate (under regulations adopted or made under section 35-1704) from those lines of property insurance for which reinsurance is available for losses from riots or civil disorders under part B of title XII of the National Housing Act.

(3) The term "environmental hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner.

(4) The term "inspection bureau" means any rating bureau or other organization designated by the Commissioner to perform inspections to determine the condition of the properties for which basic property insurance is sought.

(5) The terms "Industry Placement Facility" and "Facility" mean the facility consisting of all insurers licensed to write and engaged in writing basic property insurance (including homeowners and commercial multiperil policies) within the District of Columbia to assist agents, brokers, and applicants in securing basic property insurance.

(6) The term "premiums written" means gross direct premiums charged with respect to property in the District of Columbia on all policies of basic property insurance and the basic property insurance premium components of all multiperil policies, less all premiums and dividends returned, paid, or credited to policyholders or the unused or unabsorbed portions of premiums deposits.

(7) The term "property owner" means any person having an insurable interest in real, personal, or mixed real and personal property. (Aug. 1, 1968, Pub. L. 90-448, § 1203, title XII, 82 Stat. 568.)

REFERENCE IN TEXT

Part B of title XII of the National Housing Act, consists of sections 1221 to 1224, as added by section 1103 of the act of Aug. 1, 1968, Pub. L. 90-448, sections 1749bbb et seq., title 12, U.S. Code.

§ 35-1703. Industry placement facility.

(a) Within thirty days after August 1, 1968 all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multiperil policies, shall establish an Industry Placement Facility. The Facility shall formulate and administer a program, subject to disapproval by the Commissioner in whole or in part, to seek the equitable apportionment amount such insurers of basic property insurance which may be afforded applicants in the District of Columbia whose property is insurable in accordance with reasonable underwriting standards and who individually or through their insurance agent or broker request the aid of the Facility to procure such insurance. The Facility shall seek to place insurance with one or more participating companies up to the full insurable value of the risk, if requested, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

(b) The Facility may, subject to the approval of the Commissioner, provide as part of its program for the equitable distribution of commercial risks and dwelling risks among insurers.

(c) Each insurer licensed to write and engaged in writing in the District of Columbia, on a direct basis, basic property insurance or any component thereof in multiperil policies shall participate in the Industry Placement Facility program in accordance with the established rules of the program as a condition of its authority to transact such kinds of insurance in the District of Columbia, except that, in lieu of revoking or suspending the certificate of authority of any company for any failure to comply with any of the established rules of the program, the Commissioner may subject such company to a penalty of not more than \$200 for each such failure to so comply when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia. (Aug. 1, 1968, Pub. L. 90-448, § 1204, title XII, 82 Stat. 568.)

§ 35-1704. Fair access to insurance requirements.

(a) The Industry Placement Facility shall on its own motion, or within thirty days after a request by the Commissioner, submit to the Commissioner such proposed rules and regulations applicable to insurers, agents, and brokers deemed necessary to assure all property owners fair access to basic property insurance through the normal insurance markets, including rules and regulations concerning—

(1) the manner and scope of inspections of risk by an inspection bureau;

(2) the preparation and filing of inspection reports and reports on actions taken in connection with inspected risks, and summaries thereof;

(3) the operation of the Facility, including rules and regulations concerning—

(A) the basic property insurance coverages to be provided through the Facility;

(B) the reasonable effort to obtain insurance in the normal commercial market required of an applicant before recourse to the Facility; and

(C) the appeals procedure within the Facility for any applicant for insurance regarding any ruling, action, or decision by or on behalf of the Facility.

(b) The Commissioner may adopt such of the rules and regulations submitted pursuant to subsection (a) of this section as he approves. If the Commissioner disapproves any proposed rule or regulation submitted, he shall state the reasons for so doing, and he shall require the Facility to submit a revision thereof within such time as he may designate, but no less than ten days. During such designated time, the Commissioner and the Facility shall consult regarding any such disapproved rule or regulation. If the Facility fails to submit a proposed rule or regulation, or revision thereof, within the designated time, or if a revised rule or regulation is unacceptable to the Commissioner, the Commissioner may make such rules and regulations covering the proposed general subject matter as he shall deem necessary to carry out the purposes of this chapter. Any rule or regulation adopted or made under this sec-

tion shall be consistent with the requirements of part A of title XII of the National Housing Act. (Aug. 1, 1968, Pub. L. 90-448, § 1205, title XII, 82 Stat. 569.)

REFERENCE IN TEXT

Part A of title XII of the National Housing Act, consists of sections 1211 to 1214, as added by section 1103 of the act of Aug. 1, 1968, Pub. L. 90-448, sections 1749bbb-3 et seq., title 12, U.S. Code.

§ 35-1705. Joint Underwriting Association.

(a) The Commissioner is authorized to establish by order a joint underwriting association if he finds, after notice and hearing, that such association is necessary to carry out the purposes of this chapter. Such joint underwriting association shall consist of all insurers licensed to write and engaged in writing in the District of Columbia, on a direct basis, such basic property insurance as may be designated by the Commissioner or any component thereof in multiperil policies.

(b) Every such insurer shall be and remain a member of the association and shall comply with all requirements of membership as a condition of its authority to transact such kinds of insurance in the District of Columbia, except that in lieu of revoking or suspending the certificate of authority of any company for any failure to comply with any of the requirements of membership, the Commissioner may subject such company to a penalty of not more than \$200 for each such failure to so comply when in his judgment he finds that the public interest would be best served by the continued operation of the company in the District of Columbia.

(c) (1) Within sixty days following the effective date of the order of the Commissioner under this section the association shall submit to him a proposed plan of operation, consistent with the provisions of this chapter, which shall provide for economical, fair, and nondiscriminatory administration of the association and for the prompt and efficient provision of reinsurance, without regard to environmental hazards, for such basic property insurance as may be designated by the Commissioner. The plan of operation shall include provisions for—

(A) preliminary assessment of all members for initial expenses necessary to commence operations;

(B) establishment of necessary facilities;

(C) management and operation of the association;

(D) assessment of members to defray losses and expenses;

(E) commission arrangements;

(F) reasonable underwriting standards;

(G) assumption and cessation of reinsurance; and

(H) such other matters as the Commissioner may designate.

(2) The plan of operation shall not take effect until approved by the Commissioner. If the Commissioner disapproves the proposed plan of operation (or any part thereof), he shall state the reasons for so doing, and the association shall within thirty days thereafter submit for his review an appropriately revised plan of operation. During such time, the Commissioner and the association shall consult regarding the disapproved plan or part

thereof. If the association fails to submit a revised plan of operation, or if the revised plan so submitted is unacceptable to the Commissioner, the Commissioner shall promulgate a plan of operation.

(3) The association may, on its own initiative, amend such plan, subject to approval by the Commissioner, and shall amend such plan at the direction of the Commissioner if he finds such action is necessary to carry out the purposes of this chapter.

(d) All members of the association shall participate in its writings, expenses, profits, and losses, or in such categories thereof as may be separately established by the association, subject to approval by the Commissioner, in the proportion that the premiums written by each such member during the preceding calendar year bear to the aggregate premiums written in the District of Columbia by all members of the association, or in accordance with such other formula as the association may devise with the approval of the Commissioner. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the Commissioner.

(e) The association shall be governed by a board of eleven directors, elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with the proportionate amount of each member's net direct premiums written in the District of Columbia during the preceding calendar year. The first board shall be elected at a meeting of the members or their authorized representatives, which shall be held within thirty days after the effective date of the order under this section establishing the association, at a time and place designated by the Commissioner. (Aug. 1, 1968, Pub. L. 90-448, § 1206, title XII, 82 Stat. 569.)

§ 35-1706. Examination by Commissioner.

The operation of any inspection bureau, the Industry Placement Facility, and the joint underwriting association shall at all times be subject to the supervision and regulation of the Commissioner. The Commissioner shall have the power of visitation of and examination into such operations and free access to all the books, records, files, papers, and documents that relate to such operations, may summon and qualify witnesses under oath, and may examine directors, officers, agents, employees or, any other person having knowledge of such operations. (Aug. 1, 1968, Pub. L. 90-448, § 1207, title XII, 82 Stat. 571.)

§ 35-1707. Waiver of liability.

There shall be no liability on the part of, and no cause of action of any nature shall arise against, insurers, any inspection bureau, the Industry Placement Facility, the joint underwriting association, the agents or employees of such bureau, Facility, or association, or any officer or employee of the District of Columbia, for any statements made in good faith by them concerning the insurability of property (A) in any reports or other communications, (B) at the time of the hearings conducted in connection therewith, or (C) in the findings with respect thereto

required by the provisions of this chapter. The reports and communications of any inspection bureau, the Industry Placement Facility, and the joint underwriting association with respect to individual properties shall not be open to inspection by, or otherwise available to, the public. (Aug. 1, 1968, Pub. L. 90-448, § 1208, title XII, 82 Stat. 571.)

§ 35-1708. Annual reports by Joint Underwriting Association.

The joint underwriting association shall file with the Commissioner, annually on or before the 1st day of March, a statement which shall contain information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the Commissioner and shall be in such form as is approved by him. The Commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition, or any matter connected therewith which he considers to be material and which will assist him in evaluating the scope, operation, and experience of the association. (Aug. 1, 1968, Pub. L. 90-448, § 1209, title XII, 82 Stat. 571.)

§ 35-1709. Appeals.

(a) Any applicant for insurance and any affected insurer may appeal to the Commissioner within ninety days after any final ruling, action, or decision by or on behalf of any inspection bureau, the Industry Placement Facility, or the joint underwriting association, following exhaustion of remedies available within such bureau, Facility, or association.

(b) All final orders or decisions of the Commissioner made under this chapter shall be subject to review by the District of Columbia Court of Appeals under section 11-742 of the District of Columbia Code. (Aug. 1, 1968, Pub. L. 90-448, § 1210, title XII, 82 Stat. 571.)

§ 35-1710. Reimbursement for reinsurance provided under National Insurance Development Program.

(a) In order to carry out the purposes of this chapter and to make available to insurers who par-

ticipate hereunder the reinsurance afforded under part B of title XII of the National Housing Act against losses to property resulting from riots or civil disorders, the Commissioner is authorized to assess each insurance company authorized to do business in the District of Columbia an amount, in the proportion that the premiums earned by each such company in the District of Columbia, on lines reinsured in the District of Columbia by the Secretary of Housing and Urban Development, during the preceding calendar year bear to the aggregate premiums earned on those lines in the District of Columbia by all insurance companies, sufficient to provide a fund to reimburse the Secretary of Housing and Urban Development in the manner set forth in section 1223(a)(1) of such part B. Such fund may be added to or such fund may be created by moneys appropriated therefor by the Congress.

(b) Insurers shall add to the premium rate an amount, to be approved by the Commissioner, sufficient to recover, within not more than three years, any amounts assessed under subsection (a) of this section during the preceding calendar year. Such amount shall be a separate charge to the insured in addition to the premium to be paid and shall be reflected as such in the policy of insurance. No commission shall be paid thereon to any agent or broker producing or selling the policy of insurance wherein such amount is added. (Aug. 1, 1968, Pub. L. 90-448, § 1211, title XII, 82 Stat. 572.)

REFERENCE IN TEXT

Part B of title XII of the National Housing Act, consists of sections 1221 to 1224, as added by section 1103 of the act of Aug. 1, 1968, Pub. L. 90-448, sections 1749bbb et seq., title 12, U.S. Code.

§ 35-1711. Delegation.

The Commissioner is authorized to delegate any of the functions vested in him by this chapter. (Aug. 1, 1968, Pub. L. 90-448, § 1212, title XII, 82 Stat. 572.)

TRANSFER OF FUNCTIONS

Reorganization Order No. 43, as amended Aug. 12, 1968, delegated to the Superintendent of Insurance the functions vested in the Commissioner by this chapter. For full details see the order as set out in the appendix to title 1.

TITLE 36.—LABOR

Chapter 1A.—VOLUNTARY APPRENTICES

§ 36-122. Apprenticeship Council — Membership — Term—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-129. Registration and approval of agreements—Agreements extending into majority of apprentice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-128.

Chapter 2.—CHILD LABOR AND WORK PERMITS

§ 36-201. Regulation of child labor—Employment of children under fourteen years of age—Distribution of newspapers permitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-202, 36-208, 36-212, 36-215, 36-228.

§ 36-202. Employment of children under eighteen years of age—Hours of employment—Notice to be posted in place of employment—List of minors employed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-212, 36-215, 36-228.

§ 36-203. Employment dangerous or prejudicial to life prohibited—Board of Education to prohibit such employment by general or special order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-208, 36-212, 36-215, 36-228.

§§ 36-204 to 36-207.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-203, 36-212, 36-215, 36-228.

§ 36-208. Work or vacation permit—Procurement by employer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-212, 36-215, 36-228.

§ 36-209. Permit issued by director of school attendance and work permits—Contents—Record of applicants to be kept—List of permits granted or refused to be sent weekly to schools.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-210, 36-212, 36-215, 36-228.

§ 36-210. Application for permit—Evidence required to be furnished—Physician's certificate—School record.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-212, 36-215, 36-228.

§ 36-211. Evidence of age.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-210, 36-212, 36-215, 36-228.

§§ 36-212 to 36-214.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-212, 36-215, 36-228.

§§ 36-215, 36-216.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-212, 36-228.

§ 36-217. Limitations on employment in stuffing of newspapers—Sale of newspapers in streets—Distribution of papers on fixed routes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-201, 36-202, 36-212, 36-218 to 36-220, 36-222, 36-223, 36-228.

§§ 36-218 to 36-221.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-201, 36-212, 36-222, 36-223, 36-228.

§ 36-222. Penalties for violations of sections 36-217 to 36-224—Commitments to Board of Public Welfare—Probationary supervision—Revocation of badge.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-1557, 36-201, 36-212, 36-223, 36-228.

§§ 36-223, 36-224.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-201, 36-212, 36-222, 36-228.

§§ 36-225 to 36-227.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-1557, 36-212, 36-228.

§ 36-228. Juvenile court has jurisdiction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 11-1557.

Chapter 3.—EMPLOYMENT OF WOMEN

§ 36-301. Employment of females—Period of employment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-302 to 36-309a.

§ 36-302. Hours of employment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304 to 36-309.

§ 36-303. Hours of continuous labor restricted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304 to 36-309a.

§ 36-304. Notice to be posted—Allowance for meals.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-301, 36-305 to 36-309a.

§ 36-305. Time book to be kept.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304, 36-306 to 36-309a.

§ 36-306. Inspectors—Appointment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304, 36-305, 36-307 to 36-309.

§ 36-307. Inspectors authorized to enter buildings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304 to 36-306, 36-308, 36-309.

§ 36-308. Inspectors to enforce law—Reports.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304 to 36-307, 36-309.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-309. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-304 to 36-308.

§ 36-309a. Exceptions as to requirements of certain sections, and as to keeping records of hours worked.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(280) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 36-310. Employers to furnish seats for female employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-308, 36-311.

§ 36-311. Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-308.

Chapter 4.—MINIMUM WAGES AND INDUSTRIAL SAFETY**SUBCHAPTER I.—MINIMUM WAGES****§ 36-402. Definitions.**

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-403. Minimum wage and overtime compensation—Workweek—Wage orders.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-402, 36-404, 36-407, 36-408, 36-413.

§ 36-405. Powers and duties of Commissioners—Investigations—Statements from employers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-406. Reconsideration and revision of wage orders—Ad hoc committees—Committee reports of findings and recommendations—Failure to report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-402.

§ 36-407. Issuance of revised wage orders—Notice and hearing—Notice and effective date of orders—Contents of orders—Restrictions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-402, 36-406.

§ 36-408. Regulations of Commissions—Contents—Notice and hearing—Effective date.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(281) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section relating to making and revising regulations, including definitions of terms, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-402, 36-403, 36-413.

§ 36-409. Judicial review of orders—Procedure—Scope of review—Additional evidence—Modification of or setting aside findings or orders—Stay pending determination of proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-410. Authority of Commissioners to take testimony and issue subpoenas—Punishment for contempt.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-411. Records of employers—Availability for inspection—Sworn statements—Statements to employees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(282) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 282, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-413.

§ 36-412. Posting of law and wage orders—Commissioners to furnish copies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-413.

§ 36-413. Prohibited acts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-414.

§ 36-415. Employee remedies—Liability of employer—Liquidated damages—Actions—Parties—Attorney fees and costs—Defenses—Assignment of claim—Supervision of payment—Waiver.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER II.—INDUSTRIAL SAFETY

§ 36-433. Additional duties of Board under this subchapter.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(283) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 283, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 36-434. Rules and regulations—Public hearing—Publication—Effective date.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(284) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to adopting and promulgating rules

and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 36-440. Office space and supplies for Board.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-441. Annual report to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—WORKMEN'S COMPENSATION

§ 36-501. Longshoremen's and Harbor Workers' Compensation Act made applicable to District of Columbia.

The provisions of chapter 18 of title 33, U.S. Code, including all amendments that may hereafter be made thereto, shall apply in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs; except that in applying such provisions the term "employer" shall be held to mean every person carrying on any employment in the District of Columbia, and the term "employee" shall be held to mean every employee of any such person. (May 17, 1928, 45 Stat. 600, ch. 612, § 1.)

CODIFICATION

This section is set out in this supplement to correct a typographical error in the 1967 edition of the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 36-438, 46-303.

NOTES TO DECISIONS

Aggravation of illness

Aggravation of a pre-existing condition may constitute compensable accidental injury under Longshoremen's and Harbor Workers' Compensation Act. *M. R. Wheatley v. H. Adler, Deputy Commissioner, etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Basis for rejection of claim

The rejection of a workmen's compensation claim for the death of an employee occurring during the course of employment cannot be supported as matter of law unless record contains substantial evidence showing that the death did not arise out of employment. *M. R. Wheatley v. H. Adler, Deputy Commissioner, etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Commissioner's finding of fact

The findings of a deputy commissioner in proceedings under the Longshoremen's and Harbor Workers' Act must

be accepted as true unless they are not supported by substantial evidence on the record considered as a whole and may be set aside only if not in accordance with law. *A. E. Van Devander and W. L. Massey v. Heller Electric Co., Inc., et al.* (1968, 405 F. 2d 1108, 132 U.S. App. D.C. 40).

Construction

In order to bring a claimant within ambit of Longshoremen's and Harbor Workers' Act affording compensation for accidental injury or death arising out of and in course of employment there is a requirement that there be a continuity of cause, combined with continuity in time and space. *A. E. Van Devander and W. L. Massey v. Heller Electric Co., Inc., et al.* (1968, 405 F. 2d 1108, 132 U.S. App. D.C. 40).

Longshoremen's and Harbor Workers' Compensation Act are required to be construed liberally in favor of employees and their dependents and it is in their favor that doubts, including the factual, are to be resolved. *M. R. Wheatley v. H. Adler, Deputy Commissioner, etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Administrative findings in workmen's compensation case will not be sustained merely because they are substantiated by some isolated evidence and court's review must take account of settled rule that Longshoremen's and Harbor Workers' Compensation Act is to be construed with view to its beneficent purposes. *Id.*

Contribution to a tort-feasor

Private employers in District of Columbia whose employees are within protection of the Longshoremen's and Harbor Workers' Compensation Act may not be compelled to contribute to a tort-feasor held liable to the employee. *J. S. Murray v. United States* (1968, 405 F. 2d 1361, 132 U.S. App. D.C. 91).

Course of employment

Accidents and death occurring while an employee is on his way to or from toilet facilities or while he is engaged in relieving himself, generally arise within course of employment for workmen's compensation purposes, subject to possible question of reasonableness of means or place chosen. *M. R. Wheatley v. H. Adler, Deputy Commissioner etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Evidence—Sufficiency

There was sufficient evidence to support the findings of deputy commissioner, in proceedings under Longshoremen's and Harbor Workers' Act, that injuries suffered by claimant when he fell asleep from fatigue while driving home after work were attributable to claimant's lack of sleep due to unusually long hours of work installing heavy electrical equipment and that such injuries arose out of and in the course of his employment. *A. E. Van Devander and W. L. Massey v. Heller Electric Co., Inc., et al.* (1968, 405 F. 2d 1108, 132 U.S. App. D.C. 40).

Exposure to hazards

It does not matter, for purposes of workmen's compensation award, that decedent employee was exposed to no more than ordinary hazards of working and living at the time he sustained fatal heart attack or that same kind of injury might have occurred wherever he might have been. *M. R. Wheatley v. H. Adler, Deputy Commissioner etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Extent of stress required

Unusual stress is not required for an award for injury sustained by an employee during the course of his employment and award should be granted so long as death or injury results from activity in course of his employment. *M. R. Wheatley v. H. Adler, Deputy Commissioner etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Payment of retirement and compensation benefits

Retirement benefits under pension system were payable over and above compensation awarded under Longshoremen's and Harbor Workers' Compensation Act, where Act made invalid any agreement requiring employee to contribute to a fund for providing compensation or to waive his right to compensation, and pension plan provided that allowances were in addition to workmen's compensation benefits. *W. Massey and W. G. White v. D.C. Transit System, Inc.* (1967, 388 F. 2d 584, 128 U.S. App. D.C. 328).

Presumption

The fact that injury or death occurs in course of employment strengthens presumption that it arises out of employment, with doubts resolved in claimant's favor. *M. R. Wheatley v. H. Adler, Deputy Commissioner, etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Rebuttal of presumption

The evidence did not dispel the statutory presumption that an employee, who was shown by autopsy report to have been suffering from marked arteriosclerotic heart disease, whose death resulted from myocardial insufficiency and who collapsed after urinating outside employer's building in cold weather, came within provisions of Longshoremen's and Harbor Workers' Compensation Act. *M. R. Wheatley v. H. Adler, Deputy Commissioner, etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

Visible injury

An accidental injury may occur, within workmen's compensation law notwithstanding the injured employee has been engaged in his usual and ordinary activity and injury need not be external but it is enough if something unexpectedly goes wrong within the human frame. *M. R. Wheatley v. H. Adler, Deputy Commissioner etc., et al.* (1968, 407 F. 2d 307, 132 U.S. App. D.C. 177).

§ 36-502. Exceptions.

This chapter shall not apply in respect to the injury or death of (1) a master or member of a crew of any vessel; (2) an employee of a common carrier by railroad when engaged in interstate or foreign commerce or commerce solely within the District of Columbia; (3) an employee subject to the provisions of section 7902 and subchapter I of chapter 81 of title 5, U.S. Code, and sections 292 and 1920-1922 of title 18 U.S. Code and (4) an employee engaged in agriculture, domestic service, or any employment that is casual and not in the usual course of the trade, business, occupation, or profession of the employer; and (5) any secretary, stenographer, or other person performing any services in the office of any Member of Congress or under the direction, employment, or at the request of any Member of Congress, within the scope of the duties performed by secretaries, stenographers, or such employees of Members of Congress. (May 17, 1928, 45 Stat. 600, ch. 612, § 2; June 15, 1938, 52 Stat. 689, ch. 392.)

CODIFICATION

This section is set out in the supplement to correct an error therein, as it appears in the 1967 edition of the code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 36-438.

Chapter 6.—PAYMENT AND COLLECTION OF WAGES**§ 36-601. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(285) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) with respect to promulgating regulations defining and delimiting the term "any person employed in a bona fide executive, administrative, or professional capacity," to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 36-602. When wages must be paid—Exceptions.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 36-603, 36-604, 36-607.

§ 36-604. Unconditional payment of wages conceded to be due.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 36-607.

§ 36-606. Enforcement, records and subpoenas.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-608. Employees' remedies.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 36-609. Commissioners may delegate functions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 37.—LIBRARIES

Chapter 1.—PUBLIC LIBRARIES

§ 37-101. Public library established—Authority of Commissioners—Acceptance of gifts.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 37-102, 37-103.

§ 37-102. Branch libraries.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37-103.

§ 37-104. Board of trustees—Appointment and tenure.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

"(1) Board of Education (including the public school system)

"(2) Board of Library Trustees (including the public libraries)

"(3) Recreation Board

"(4) Public Service Commission

"(5) Zoning Commission

"(6) Zoning Advisory Council

"(7) Board of Zoning Adjustment

"(8) Office of the Recorder of Deeds

"(9) Armory Board"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37-103.

§ 37-105. Duties—Librarian and employees—Annual report.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37-103.

§ 37-106. Submission of estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 37-103.

§ 37-109. Transfer of miscellaneous books to District public library.

CODIFICATION

Section is also classified to 40 U.S.C. § 484-1.

TITLE 38.—LIENS

Chapter 1.—MECHANICS, MATERIALMEN, AND CONTRACTORS

§ 38-104. Conditions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38-103, 38-209.

NOTES TO DECISIONS

Owners liability to subcontractor

Where 23 % of each progress report certified by architect was chargeable against down payment and note to be delivered and to begin to be due when warehouse construction work was completed and lender paid remaining 77 % of amounts shown on the first ten of eleven certified progress requisitions and where owners terminated the contract, the down payment and note at least negated further obligations of owners in those amounts, and owners thus owed general contractor nothing when subcontractors filed mechanics' liens, after termination of contract, pursuant to District of Columbia statute providing in effect that if owner owes general contractor nothing subcontractors can collect nothing by mechanics' liens. *Washington Concrete Sales Corporation, Inc., and R. L. Walutes etc. v. A. E. Morrisette et al.* (1966, 377 F. 2d 137, 126 U.S. App. D.C. 252).

Evidence supported finding that owners, sued by subcontractors for enforcement of mechanics' liens filed under District of Columbia statute providing in effect that if owner owes general contractor nothing subcontractors can collect nothing, had completed building at cost higher than original contract price after terminating the contract. *Id.*

§§ 38-105, 38-106.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 38-103.

§ 38-107. Subcontractor entitled to know terms of contract.

NOTES TO DECISIONS

Evidence of notice to subcontractors

Evidence supported finding that owners had advised subcontractors seeking to enforce mechanics' liens as to terms of warehouse construction contract, status of payments, etc., in accordance with District of Columbia

statute. *Washington Concrete Sales Corporation, Inc., and R. L. Walutes etc. v. A. E. Morrisette et al.* (1966, 377 F. 2d 137, 126 U.S. App. D.C. 252).

§§ 38-108, 38-109.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 38-103.

§ 38-110. How lien enforced.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38-103, 38-123.

§§ 38-111 to 38-122.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 38-103.

§ 38-124. Artisans' lien.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 38-125.

§§ 38-125, 38-126.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 38-209.

Chapter 2.—GARAGE KEEPERS AND LIVERYMEN

§ 38-201. Repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38-202, 38-209.

§§ 38-202, 38-203.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 38-209.

§ 38-204. Lien of liverymen.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38-206, 38-209.

§ 38-205. Lien for storage, repairs and supplies for motor vehicles.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 38-206, 38-208, 38-209.

TITLE 39.—MILITARY

PRESIDENTIAL EXECUTIVE ORDER 11485

SUPERVISION AND CONTROL OF THE NATIONAL GUARD OF THE DISTRICT OF COLUMBIA

By virtue of the authority vested in me as President of the United States and Commander-in-Chief of the Armed Forces of the United States and the National Guard of the District of Columbia under the Constitution and laws of the United States, including section 6 of the Act of March 1, 1889, 25 Stat. 773 (District of Columbia Code, sec. 39-112), and section 110 of title 32 and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, except as provided in section 3, is authorized and directed to supervise, administer and control the Army National Guard and the Air National Guard of the District of Columbia (hereinafter "National Guard") while in militia status. The Commanding General of the National Guard shall report to the Secretary of Defense or to an official of the Department of Defense designated by the Secretary on all matters pertaining to the National Guard. Through the Commanding General, the Secretary of Defense shall command the military operations, including training, parades and other duty, of the National Guard while in militia status. Subject to the direction of the President as Commander-in-Chief, the Secretary may order out the National Guard under title 39 of the District of Columbia Code to aid the civil authorities of the District of Columbia.

SEC. 2. The Attorney General is responsible for: (1) advising the President with respect to the alternatives available pursuant to law for the use of the National Guard to aid the civil authorities of the District of Columbia; and (2) for establishing after consultation with the Secretary of Defense law enforcement policies to be observed by the military forces in the event the National Guard is used in its militia status to aid civil authorities of the District of Columbia.

SEC. 3. The Commanding General and the Adjutant General of the National Guard will be appointed by the President. The Secretary of Defense, after consultation with the Attorney General, shall at such times as may be appropriate submit to the President recommendations with respect to such appointments.

SEC. 4. The Secretary of Defense and the Attorney General are authorized to delegate to subordinate officials of their respective Departments any of the authority conferred upon them by this order.

SEC 5. Executive Order No. 10030 of January 26, 1949, is hereby superseded.

Chapter 1.—COMPOSITION, ORGANIZATION, AND CONTROL

§ 39-102. Exemptions from service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 39-101.

§ 39-103. Assessors to make list of persons liable to enrollment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 39-107. Repealed. Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53.

Section, acts June 3, 1916, 39 Stat. 197, ch. 134, § 60; June 4, 1920, 41 Stat. 780, ch. 227, subch. I, § 36; June 15, 1933, 48 Stat. 156, ch. 87, § 6, which related to organization of National Guard units, which had superseded act Mar. 1, 1889, 25 Stat. 774, ch. 328, § 11, as amended by act Feb. 18, 1909, 35 Stat. 629, ch. 146, is now covered by 32 U.S.C. § 104.

§ 39-108. Reserve corps—Organization—Composition.

CODIFICATION

Section 74 of 1909 act made act Jan. 21, 1903, 32 Stat. 775 applicable to the District of Columbia; but this act had been superseded by the National Defense Act of June 3, 1916, 39 Stat. 166, ch. 134. The National Defense Act of June 3, 1916, was in turn repealed by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53 (this act enacted into law many of its provisions) and it is now covered by titles 10 and 32 of the U.S. Code. See tables in the U.S. Code.

§§ 39-109, 39-110. Repealed. Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53.

Section 39-109, act May 12, 1917, 40 Stat. 72, ch. 12, as amended by acts July 1, 1947, 61 Stat. 238, ch. 192, § 1(a); July 9, 1952, 66 Stat. 506, ch. 608, pt. VIII, § 804(a), which related to leaves of absence for employees of the United States and the District of Columbia who were members of the reserve components of the Armed Forces, is now covered by 5 U.S.C. §§ 502, 2105, 3551, 5534, 6323. See, particularly, 5 U.S.C. § 6323.

Section 39-110, act May 12, 1917, 40 Stat. 72, ch. 12, as amended by acts July 1, 1947, 61 Stat. 238, ch. 192, § 1(a); July 9, 1952, 66 Stat. 506, ch. 608, pt. VIII, § 804(a), which related to restoration of employees of the United States and the District of Columbia, who were members of the reserve components of the Armed Forces, to their government positions, when relieved from duty in such components, is now covered by 5 U.S.C. §§ 502, 2105, 3551, 5534, 6323. See, particularly, 5 U.S.C. § 3551.

§ 39-111. Disbanding companies below minimum strength.

CODIFICATION

In first sentence, words " , with the consent of the President," were inserted after "the commanding general may" on authority of a proviso in § 68 of act June 3, 1916, cited as one of the sources of this section, which read: "Provided, That no organization of the National Guard, members of which shall be entitled to and shall have received compensation under the provisions of this act, shall be disbanded without the consent of the President, nor, without such consent, shall the commissioned or enlisted strength of any such organization be reduced below the minimum that shall be prescribed therefor by the President." Section 68 was repealed in its entirety by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53, and, including the quoted proviso, is now covered by 32 U.S.C. § 104. See, particularly, subsec. (f) thereof.

Section 14 of act Mar. 1, 1889, 25 Stat. 774, ch. 328, fixed the minimum number of enlisted men in any company at forty. That section was repealed by act Feb. 18, 1909, 35 Stat. 630, ch. 146. It was considered that § 11 of act Mar. 1, 1889, 25 Stat. 774, as amended by act Feb. 18, 1909, 35 Stat. 629, which related to composition of the National Guard, was intended to supersede repealed § 14, but § 11 was later superseded by § 60 of act June 3, 1916, 39 Stat. 197, ch. 134 (National Defense Act). The latter, however, which was formerly classified

to § 39-107 and to 32 U.S.C. former § 5, has been repealed and is now covered by 32 U.S.C. § 104. See note under former § 39-107.

Chapter 2.—COMMISSIONED OFFICERS

§ 39-202. Staff officers—Appointment and removal—Noncommissioned staff.

CODIFICATION

As enacted by the act of Mar. 1, 1889, this section, after "President" at end of first sentence, contained the additional words: ", and hold office until their successors are appointed and qualified, but may be removed at any time by the President"; and, after "adjutant-general," near beginning of second sentence, contained the words: "with the rank of lieutenant colonel." These words were omitted from this section because apparently affected by a proviso in § 66 of act June 3, 1916, cited as one of the sources hereof, which read: "*Provided*, That the adjutants general of the Territories and of the District of Columbia shall be appointed by the President with such rank and qualifications as he may prescribe, and each adjutant general for a Territory shall be a citizen of the Territory for which he is appointed.", and which was classified to 32 U.S.C. former § 12. § 66 of act June 3, 1916 was repealed in its entirety by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53, and is now covered by 32 U.S.C. § 314. See, particularly, subsec. (b) thereof.

§ 39-203. Qualifications of staff officers—Tenure—Vacancies.

CODIFICATION

The paragraph of act July 11, 1919, 41 Stat. 127, ch. 8, classified to this section, contained an introductory clause as follows: "That to comply with the provisions of section 110, of the act entitled 'An Act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916 [39 Stat. 209, ch. 134], it is hereby provided that staff officers" [etc.]: § 110 of act June 3, 1916, was repealed by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53, and is now covered by 32 U.S.C. §§ 303, 322, 323, 710; see, also, 31 U.S.C. § 698a, and 37 U.S.C. §§ 201, 203, 204, 206, 402, 414-417, 301, 309, 1002.

CREDIT LINE

The correct citation of the source of this section is "July 11, 1919, ch. 8, 41 Stat. 127."

§ 39-205. Omitted.

CODIFICATION

Section, as enacted by act June 6, 1900, 31 Stat. 671, ch. 811, which was also classified to 10 U.S.C. former § 998, provided that the "President of the United States may detail as adjutant-general of the District of Columbia Militia any retired officer of the Army who may be nominated to the President by the brigadier-general commanding the District of Columbia Militia, said retired officer while so detailed to have the active service pay and allowances of his rank in the Regular Army." Although it was amended by act Sept. 2, 1957, 71 Stat. 596, Pub. L. 85-270, § 2, to substitute "commanding general of" for "brigadier-general commanding", it previously had been repealed by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53, having since been covered by 32 U.S.C. § 314(c), which also uses the term "commanding general", rather than the prior term "brigadier-general". As it is considered that the amendment of this repealed section by act Sept. 2, 1957, was an oversight, and that in any event this section is now covered by 32 U.S.C. § 314(c), this section is omitted from this Code.

Chapter 4.—ENLISTED PERSONNEL

§§ 39-401 to 39-403. Repealed. Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53.

Section 39-401, acts June 3, 1916, 39 Stat. 200, ch. 134, § 69; July 11, 1919, 41 Stat. 127, ch. 8; June 4, 1920, 41 Stat. 781, ch. 227, subch. I, § 37; June 6, 1924, 43 Stat.

470, ch. 275, § 4; June 15, 1933, 48 Stat. 156, ch. 87, § 7; July 9, 1952, 66 Stat. 506, ch. 608, pt. VIII, § 806(a), which related to terms of enlistments in the National Guard and reenlistments, which superseded act Mar. 1, 1889, 25 Stat. 775, ch. 328, § 26, as amended by act Feb. 18, 1909, 35 Stat. 632, ch. 146, § 23, relating to the same subject, is now covered by 32 U.S.C. § 302.

Section 39-402, acts June 3, 1916, 39 Stat. 201, ch. 134, § 70; June 4, 1920, 41 Stat. 781, ch. 227, subch. I, § 38; June 15, 1933, 48 Stat. 156, ch. 87, § 8; June 19, 1935, 49 Stat. 391, ch. 277, § 3; July 9, 1952, 66 Stat. 506, ch. 608, pt. VIII, § 806(b), which related to enlistment contract and oath of enlistment, which superseded act Mar. 1, 1889, 25 Stat. 776, ch. 328, § 27, as amended by act Feb. 18, 1909, 35 Stat. 632, ch. 146, relating to the same subject, is now covered by 32 U.S.C. § 304.

Section 39-403, acts June 3, 1916, 39 Stat. 201, ch. 134, § 72; June 4, 1920, 41 Stat. 781, ch. 227, subch. I, § 40; June 15, 1933, 48 Stat. 157, ch. 87, § 10; July 9, 1952, 66 Stat. 507, ch. 608, pt. VIII, § 806(d), which related to form and classification of discharge of an enlisted man from National Guard, and discharges in time of peace, which superseded act Mar. 1, 1889, ch. 328, §§ 28, 30, as amended by Act Feb. 18, 1909, 35 Stat. 632, ch. 146, relating to the same subject, is now covered by 32 U.S.C. § 322.

Chapter 5.—ARMAMENT, EQUIPMENT, AND SUPPLIES

§ 39-501. Uniform, arms, and equipment—Issuance by Department of the Army.

CODIFICATION

Act Feb. 18, 1909, 35 Stat. 629, ch. 146, amended act Mar. 1, 1889, 25 Stat. 772, ch. 328. Some of the sections of the 1889 act were repealed, some amended, and others were entirely new sections added by the act of 1909. In the history lines of this chapter, the section number of the 1889 act refers to the section of the original act as it appears in 25 Stat. 772 et seq. The section number in the 1909 act in the history line refers to the section of the 1889 act as amended by later act and shows the new number and wording of the section as it is found in 35 Stat. 629 et seq.

Section 36 of act Mar. 1, 1889, 25 Stat. 777, ch. 328, which was renumbered "39", without further amendment, by act Feb. 18, 1909, 35 Stat. 634, ch. 146, provided: "That property issued or provided under the provisions of this act which becomes unfit for use, and is condemned as unserviceable shall be reported by the commanding general to the Secretary of War, and shall be disposed of as may be directed by him." That section is deemed to have been superseded by act June 3, 1916, 39 Stat. 204 (National Defense Act of 1916), ch. 134, § 87, as amended by acts June 3, 1924, 43 Stat. 363, ch. 244, § 1; Feb. 28, 1925, 43 Stat. 1077, ch. 371, § 4; Aug. 27, 1954, 68 Stat. 880, ch. 1014, which was repealed by act Aug. 10, 1956, 70A Stat. 641, ch. 1041, § 53, and is now covered by 32 U.S.C. § 710.

§ 39-505. Penalty for selling, pawning, injuring, or retaining public property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 39-511.

Chapter 6.—ACTIVE MILITARY DUTY

PRESIDENTIAL EXECUTIVE ORDER 11485

SUPERVISION AND CONTROL OF THE NATIONAL GUARD OF THE DISTRICT OF COLUMBIA

By virtue of the authority vested in me as President of the United States and Commander-in-Chief of the Armed Forces of the United States and the National Guard of the District of Columbia under the Constitution and laws of the United States, including section 6 of the Act of March 1, 1889, 25 Stat. 773 (District of Columbia Code, sec. 39-112), and section 110 of title 32 and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, except as provided in section 3, is authorized and directed to supervise, administer and control the Army National Guard and the Air National Guard of the District of Columbia (hereinafter "National Guard") while in militia status. The Commanding General of the National Guard shall report to the Secretary of Defense or to an official of the Department of Defense designated by the Secretary on all matters pertaining to the National Guard. Through the Commanding General, the Secretary of Defense shall command the military operations, including training, parades and other duty, of the National Guard while in militia status. Subject to the direction of the President as Commander-in-Chief, the Secretary may order out the National Guard under title 39 of the District of Columbia Code to aid the civil authorities of the District of Columbia.

SEC. 2. The Attorney General is responsible for: (1) advising the President with respect to the alternatives available pursuant to law for the use of the National Guard to aid the civil authorities of the District of Columbia; and (2) for establishing after consultation with the Secretary of Defense law enforcement policies to be observed by the military forces in the event the National Guard is used in its militia status to aid civil authorities of the District of Columbia.

SEC. 3. The Commanding General and the Adjutant General of the National Guard will be appointed by the President. The Secretary of Defense, after consultation with the Attorney General, shall at such times as may be appropriate submit to the President recommendations with respect to such appointments.

SEC. 4. The Secretary of Defense and the Attorney General are authorized to delegate to subordinate officials of their respective Departments any of the authority conferred upon them by this order.

SEC. 5. Executive Order No. 10030 of January 26, 1949, is hereby superseded.

§ 39-603. Suppression of riots.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 39-608. Repealed. Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632; Oct. 22, 1968, Pub. L. 90-623, § 7(a)(1), 82 Stat. 1315.

The first sentence of this former section, act Mar. 1, 1889, 25 Stat. 779, ch. 328, § 49, renumbered as § 52 of such act, without further amendment, by act Feb. 18, 1909, 35 Stat. 629 (634), ch. 146, provided for leaves of absence for officers and employees of the United States and District of Columbia, who were members of the National Guard, to attend parades and encampments. It was repealed as § "49" of the 1889 act, without citation of said amendatory act of Feb. 18, 1909, by act Sept. 6, 1966, 80 Stat. 632, Pub. L. 89-554, § 8(a). Prior to the repeal, such sentence had been superseded by act Aug. 10, 1956, 70 Stat. 632, ch. 1041, § 29, [See however, p. 5 of Report No. 1721, issued in connection with H.R. 17864, now Pub. L. 90-623 in relation to enactment of title 5 U.S.C. § 6323(c).] which, in turn, was also repealed by said § 8(a) of act Sept. 6, 1966, and is now covered by 5 U.S.C. §§ 502, 2105, 3551, 5534, 6323.

The second (and final) sentence of this former section, which was from act July 1, 1902, 32 Stat. 615, ch. 1352, and which provided that this former section should be construed as covering all days of service which the National Guard, or any portion thereof, might be ordered to perform by the commanding general, was repealed by act of Oct. 22, 1968, Pub. L. 90-623. The entire subject matter was reenacted by section 1(17)(B) of the same act as section 5 U.S.C. § 6323(c).

Chapter 8.—PAY AND ALLOWANCES

§ 39-805. Annual estimates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 9.—MISCELLANEOUS PROVISIONS

§ 39-901. Duties of officers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 39-802.

TITLE 40.—MOTOR VEHICLES

Chapter 1.—REGISTRATION OF MOTOR VEHICLES

§ 40-101. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-103, 47-1208.

§ 40-102. Registration of motor vehicles and trailers— Certificates — Tags—Duplicates—Dealers—Fees— Official and foreign vehicles and trailers—Trans- fers—Regulations.

* * * * *

(b) The Commissioners of the District of Columbia by regulation shall provide for the issuance by the director—

(1) annually to any dealer, upon payment of the fee prescribed in section 40-103, of a registration certificate and identification tags bearing a distinguishing dealer's mark, for interchangeable use on motor vehicles and trailers in accordance with regulations promulgated by the Commissioners;

(2) annually, without charge, of certificates of registration and identification tags for all motor vehicles and trailers owned by the United States or by the District of Columbia, or officially used by any duly accredited representative of a foreign government;

(3) of duplicate registration certificates or duplicate identification tags, upon proof satisfactory to the director of loss, mutilation, or destruction thereon, upon payment of a fee of \$2 for each set of duplicate tags or \$1 for each duplicate registration certificate; and

(4) to any person, upon payment of a fee of \$3, of a special use certificate and special use identification tags bearing a distinguishing mark, valid for a period not exceeding twenty days, for use on a motor vehicle or trailer in accordance with regulations promulgated by the Commissioners except that in the event such certificate and tags are necessary for use in complying with vehicle inspection regulations made pursuant to the authority contained in section 40-207, prior to completion of the registration of such vehicle or trailer, the fee shall be \$2: *Provided*, That if any person be convicted of a violation of such regulations, the director may refuse thereafter to issue a special use certificate and special use identification tags to such person for a period of one year: *Provided further*, That the issuance of a special use certificate and special use identification tags for a motor vehicle or trailer shall not constitute a registration of such motor vehicle or trailer for any purpose.

* * * * *

(d) Upon the sale or other transfer to another owner of any motor vehicle or trailer registered under this title, the registration thereof shall expire. The owner selling or otherwise transferring such

vehicle or trailer may register another motor vehicle or trailer for the unexpired portion of the registration year upon payment of a fee of \$2 and a sum equal to the difference between the registration fee originally paid and the fee computed for such other motor vehicle or trailer under section 40-103, in case the latter is the greater. If a motor vehicle or trailer be registered in the name of an individual, the name of the spouse of such individual may be added to the registration as a joint owner, subject to applicable provisions of law relating to the titling of the motor vehicle or trailer. Upon the death of a joint owner of a motor vehicle or trailer registered under this chapter the registration thereof shall be transferred to the survivor or survivors and the fee for such transfer shall be \$2.

* * * * *

(As amended July 3, 1967, Pub. L. 90-43, § 1, 81 Stat. 108; Oct. 31, 1969, Pub. L. 91-106, title IV, § 401, 83 Stat. 173.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, title IV, § 401 amended subsection (b) as follows:

In par. (3) changed the fee from "\$1" and "50 cents" to "\$2" and "\$1" respectively; In par. (4) changed the fee from "\$1 to \$3;" struck out "ten days" and inserted "twenty days" and also inserted the exception clause immediately after "Commissioners" relating to certificate and tags for use in complying with inspection regulations.

In subsection (d) struck out \$1 and changed it to \$2.

1967—Act of July 3, 1967, added the third sentence to subsection (d) as above set out relating to the addition of a spouse's name to a registered vehicle or trailer as a joint owner.

EFFECTIVE DATE OF 1969 AMENDMENTS

Section 407 of Pub. L. 91-106, title IV, provided: "The amendments made by this title [amending section 40-102, 40-103, 40-201, 40-603, 40-301, and 40-419] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]"

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106], in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not

affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of Act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(286, 287, 288 and 289) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (b), (c), (e) and (f) in the particulars described in pars. 286 to 289, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-103, 47-1208.

§ 40-103. Fees classified and use of proceeds designated.

(a) There shall be levied, collected, and paid for each registration year for each motor vehicle or trailer required to be registered under sections 40-101 to 40-105, the registration fee provided in this section, except that in the event the Commissioners prescribe and issue as the official identification tags for the District of Columbia tags treated with special reflective materials designed to increase the visibility and legibility of such tags, the Commissioners may charge a fee not exceeding fifty cents in addition to all other fees which may be required, and in the event the markings on any such tag are specially ordered by the person to whom the tag is to be issued and such markings are other than those in a regular series, a reservation fee of \$25 and an annual fee of \$10, in addition to all other fees which may be required, shall be charged for such specially ordered tag.

(b) **Class A:** For each passenger vehicle, including passenger vehicles licensed under paragraph (d) of section 47-2331.

(1) When wholly equipped with pneumatic tires, the manufacturer's shipping weight of which is less than three thousand four hundred pounds, \$30; three thousand four hundred pounds or more, \$50.

(2) When wholly or partially equipped with other than pneumatic tires, double the above fees.

Class B. For each truck, tractor, and passenger-carrying vehicle for hire having a seating capacity of eight passengers or more in addition to the driver

or operator with the exception of passenger vehicles licensed under paragraph (b) of section 47-2331.

(1) When wholly equipped with pneumatic tires, the manufacturer's shipping weight of the chassis, plus the weight of the cab and body, is less than three thousand pounds, \$53; three thousand pounds or more but less than four thousand pounds, \$59; four thousand pounds or more but less than five thousand pounds, \$69; five thousand pounds or more but less than six thousand pounds, \$80; six thousand pounds or more but less than seven thousand pounds, \$91; seven thousand pounds or more but less than eight thousand pounds, \$99; eight thousand pounds or more but less than nine thousand pounds, \$112; nine thousand pounds or more but less than ten thousand pounds, \$128; ten thousand pounds or more but less than twelve thousand pounds, \$163; twelve thousand pounds or more but less than fourteen thousand pounds, \$191; fourteen thousand pounds or more but less than sixteen thousand pounds, \$229; sixteen thousand pounds or more, \$269: *Provided*, That in determining the total weight of a vehicle subject to the provisions of this clause, there shall be excluded, in computing such weight; the weight of any special equipment which is subject to taxation as tangible personal property under subsection (e) of this section.

(2) When wholly or partially equipped with other than pneumatic tires, double the above fees.

Class C. For each trailer, when the manufacturer's shipping weight of the chassis, plus the weight of the body, is less than five hundred pounds, 11; five hundred pounds or more but less than one thousand pounds, \$16; one thousand pounds or more but less than one thousand five hundred pounds, \$27; one thousand five hundred pounds or more but less than two thousand five hundred pounds, \$43; two thousand five hundred pounds or more but less than three thousand five hundred pounds, \$61; three thousand five hundred pounds or more but less than six thousand pounds, \$80; six thousand pounds or more but less than eight thousand pounds, \$99; eight thousand pounds or more but less than ten thousand pounds, \$123; ten thousand pounds or more but less than twelve thousand pounds, \$163; twelve thousand pounds or more but less than sixteen thousand pounds, \$203; sixteen thousand pounds or more, \$243: *Provided*, That in determining the total weight of a trailer subject to the provisions of this Class C, there shall be excluded, in computing such weight, the weight of any special equipment which is subject to taxation as tangible personal property under subsection (e) of this section.

Class D. For each motorcycle, motor bicycle, motor tricycle, and motor wheel, \$12.00.

Class E. For each motor vehicle classified by the Commissioners or their designated agent as an antique motor vehicle on the basis of a finding that such vehicle was manufactured prior to January 1, 1930, and is owned solely as a collector's item, with its use limited to participation in club activities, exhibits, tours, parades, and similar uses, but in no event for general transportation, \$5.

Class F. For dealers' identification tags, first set of tags, \$30, and \$10 for each additional set.

Class G. For each motor vehicle propelled by fuel not subject to taxation under chapter 19 of title 47, and motor vehicles propelled by any means other than motor fuels as defined in said chapter, double the fees provided in this subsection for classes A through D.

(c) When application for registration of any motor vehicle or trailer or for registration as a dealer or for issuance of dealers' identification tags is received by the director on or after October 1, the registration fee, or the fee for issuance of dealers' identification tags shall be one-half the amount otherwise provided.

(d) Proceeds from fees payable under this chapter shall be divided between the General Fund and the Highway Fund. The Commissioners are authorized and empowered to determine the percentage of all proceeds from fees payable under this chapter which shall be deposited to the credit of the General Fund of the District of Columbia: *Provided*, That the percentage of proceeds deposited to the credit of the General Fund shall be not less than forty-two per centum or more than forty-seven per centum of all proceeds from fees payable under this chapter. The remainder of such proceeds payable under this chapter, all moneys collected from the motor-vehicle-fuel tax, and fees charged for the titling of motor vehicles and trailers, including fees charged for the issuance of permits to operate motor vehicles, shall be deposited in a special account in the Treasury of the United States entirely to the credit of the District of Columbia and shall be appropriated and used solely and exclusively for the following purposes:

(1) For construction, reconstruction, improvement, and maintenance of public highways, including the necessary administrative expenses in connection therewith;

(2) For the expenses of the office of the director of vehicles and traffic incident to the regulation and control of traffic and the administration of the same; and

(3) For the expenses necessarily involved in the police control, regulation, and administration of traffic upon the highways: *Provided, however*, That the total amount to be expended under this item shall not exceed 15 per centum of the total payment appropriated for pay and allowances of officers and members of the Metropolitan police force.

For the fiscal year 1938 all moneys appropriated for the construction, reconstruction, improvement, and maintenance of highways and administrative expenses in connection therewith, all moneys appropriated for the department of vehicles and traffic, and 15 per centum of all moneys appropriated for pay and allowances for officers and members of the Metropolitan police force shall be paid from and chargeable against the fund hereby created.

(e) Notwithstanding the provisions of this chapter, special equipment mounted on a motor vehicle or trailer and not used primarily for the transportation

of persons or property shall be taxed as tangible personal property as provided by law. For the purpose of determining the fees authorized by clause 1 of class B and classes C and G of subsection (b) of this section, the weight of special equipment taxed in accordance with the provisions of this subsection (e) shall be excluded in computing the weight of the vehicle or trailer on which it is mounted. (Aug. 17, 1937, 50 Stat. 681, ch. 690, § 3, title IV; May 16, 1938, 52 Stat. 359, ch. 223, § 4; July 17, 1939, 53 Stat. 1046, ch. 313, § 2; Sept. 8, 1950, 64 Stat. 793, ch. 921, §§ 4, 5, 6; May 18, 1954, 68 Stat. 112, ch. 218, §§ 603, 604; Sept. 2, 1957, 71 Stat. 598, Pub. L. 85-273, §§ 1, 2; Sept. 6, 1960, 74 Stat. 816, Pub. L. 88-716, §§ 1-3; Oct. 31, 1969, Pub. L. 91-106, title IV, § 402, 83 Stat. 174.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, title IV, § 402, made the following amendments:

In subsection (a) inserted the matter relating to fees for tags containing markings specially ordered;

In subsection (b) relating to "Class A" struck out "three-thousand five hundred" each place it appeared and inserted in lieu "three-thousand four hundred" and struck out \$22 and \$32 and inserted instead \$30 and \$50 respectively;

In subsection (b) relating to "Class B" increased fees for trucks, tractors and certain commercial vehicles as above set out.

In subsection (b) relating to "Class C" increased the fees for trailers as above set out; and

In subsection (d) changed "sixty-four" and "seventy-four" to "forty-two" and "forty-seven" respectively.

EFFECTIVE DATE OF 1969 AMENDMENTS

Section 407 of Pub. L. 91-106, title IV, provided: "The amendments made by this title [amending section 40-102, 40-103, 40-201, 40-603, 40-301 and 40-419] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]"

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect

as if this Act [Act, Pub. L. 91-106], had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(290 and 291) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (d) in the particulars described in pars. 290 and 291, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9-220, 40-102, 40-103, 47-1208.

§ 40-104. Unlawful acts—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-103, 47-1208.

§ 40-105. Provisions not affected.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-103, 47-1208.

Chapter 2.—INSPECTION

§ 40-201. Annual inspection of motor vehicles—Inspection fee.

At the time of the registration of each motor vehicle or trailer there shall be levied and collected a fee known as the “inspection fee” of \$2. The District of Columbia Council may prescribe regulations to permit a person who owns a motor vehicle or trailer not required to be registered in the District of Columbia to have such motor vehicle or trailer inspected in the District of Columbia. Such regulations shall fix the fee for such inspection in such amount as, in the Council’s judgment, will be commensurate with the cost to the District of Columbia of such inspection. (Feb. 18, 1938, 52 Stat. 78, ch. 31, § 1; July 16, 1947, 61 Stat. 360, ch. 258, Art. IV, § 1; Oct. 12, 1968, Pub. L. 90-567, § 1, 82 Stat. 1002; Oct. 31, 1969, Pub. L. 91-106, title IV, § 403, 83 Stat. 174.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106 title IV, § 403, amended section by changing the fee from \$1 to \$2.

1968—Pub. L. 90-567, amended the section by adding thereto the sentences above set out dealing with the authority of the District Council to make regulations permitting the inspection of vehicles not required to be registered and fixing the fees.

EFFECTIVE DATE OF 1969 AMENDMENTS

Section 407 of Pub. L. 91-106, title IV, provided: “The amendments made by this title [amending section 40-102, 40-103, 40-201, 40-603, 40-301 and 40-419] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969].”

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

“(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

§ 40-205. Vehicles not inspected, or unsafe.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-207. Regulations by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—OPERATORS' PERMITS

§ 40-301. Operators' permits—Application—Examination—Periods for which issued—Fee—Lost permits—Age requirements—Provisions affecting personnel of armed forces of United States and foreign nations—Contents of permits—Possession of operator—Operation without permit prohibited.

(a) (1) The Commissioners or their designated agent shall, upon application, the payment of a fee of \$12, and compliance with such regulations as the Commissioners or their designated agent may prescribe, issue a motor vehicle operator's permit valid for a period not in excess of four years, to any individual sixteen years of age or over who, after examination, in the opinion of the Commissioners or their designated agent, is mentally, morally, and physically qualified to operate a motor vehicle in such manner as not to jeopardize the safety of individuals or property. The Commissioners or their designated agent shall cause each applicant to be examined as to his knowledge of the traffic regulations of the District and shall require the applicant to give a practical demonstration, or produce evidence acceptable to the Commissioners or their designated agent, of his ability to operate a motor vehicle within a congested portion of the District, except that upon the renewal of any such operator's permit such examination and demonstration may be waived in the discretion of the Commissioners or their designated agent. Should the Commissioners or their designated agent believe that the issuance or reissuance of a permit in accordance with the provisions of this chapter may prove a menace to public safety, they or their agent may refuse the issuance or reissuance thereof. No operator's permit issued to any individual under eighteen years of age shall authorize the operation by such individual while he is under the age of eighteen years of any motor vehicle other than a passenger vehicle or motorcycle or motor bicycle, used solely for purposes of pleasure and not for compensation.

* * * * *

(4) In the event an operator's permit or a learner's permit issued under the authority of this section is lost or destroyed, or requires replacement for any reason other than through error or other act of the Commissioner not caused by the person to whom such permit was issued, such person may obtain a duplicate or replacement permit upon payment of a fee of \$2.

* * * * *

(As amended Oct. 31, 1969, Pub. L. 91-106, title IV, § 405, 83 Stat. 174.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, title IV, § 405, amended subsection (a) (1) by striking out \$3 and inserting \$12 and changing "three years" to "four years". Also struck out par (a) (4) and changed it to read as above set out. The amendment of (a) (4) makes it applicable to cases where the permit is lost or destroyed or replacement is required for any reason, other than error, or other act of the Commissioner not caused by the holder of the permit and increases the fee from 50 cents to \$2.

EFFECTIVE DATE OF 1969 AMENDMENTS

Section 407 of Pub. L. 91-106, title IV, provided: "The amendments made by this title [amending section 40-102, 40-103, 40-201, 40-603, 40-301 and 40-419] shall take effect

on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]"

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables in complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA
COUNCIL

Section 402(292 and 293) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) (1), (6) and (b) in the particulars described in pars. 292 and 293, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-127, 40-303, 47-2331.

NOTES TO DECISIONS

Restricted license

Driver whose operator's license was subject to restriction that he wear glasses and who operated automobile

without glasses was guilty of operating automobile contrary to restricted license notwithstanding his own medical examination showing such glasses were no longer necessary. *B. Reis v. District of Columbia* (D.C., App. 1967, 230 A. 2d 487).

§ 40-302. Revocation or suspension of operators' permits—Procedure—New permit after revocation—Nonresidents—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 25-127, 40-205, 40-603, 40-612, 47-2331.

NOTES TO DECISIONS

Administrative action

Mere fact that proof tended to reveal at a suspension hearing before permit control officer of District of Columbia Department of Motor Vehicles that 17-year-old driver, whose license was suspended, was driving while under influence of alcohol did not thereby convert the proceedings, administrative in character, into a judicial proceeding of the kind Congress assigned exclusively to juvenile court. *K. P. Murphy, a minor etc. v. W. D. Heath, Director, etc.* (D.C. App. 1969, 256 A. 2d 421).

The court held that the exclusive jurisdiction in judicial proceedings conferred by Juvenile Court Act on the juvenile court is not a jurisdictional bar to the *Id.* administrative action of suspending motor vehicle operator's permit of 17-year-old driver.

Construction

Statute which permits the revocation or suspension of an operator's permit for any cause deemed sufficient was properly interpreted as permitting such revocation or suspension only for violations of usual and reasonable traffic regulations and, so construed, did not unconstitutionally delegate legislative authority. *W. R. Franklin v. District of Columbia* (D.C. App. 1968, 248 A. 2d 677).

§ 40-303. Nonresidents exempt from registration—Period of exemption.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-127, 40-104, 40-301, 40-302, 47-2331.

**Chapter 4.—MOTOR VEHICLE SAFETY
RESPONSIBILITY**

§ 40-418. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-419. Administration by Commissioners.

(a) The Commissioners shall administer and enforce the provisions of this chapter, and may make rules and regulations necessary for its administration, including rules and regulations assessing reasonable fees to reimburse the District of Columbia for the cost of reinstating licenses and registrations suspended under the authority of this chapter, such fees not to exceed the amount of \$10 for the reinstatement of a license or registration, or both a license and registration.

* * * * *

(As amended Oct. 31, 1969, Pub. L. 91-106, title IV, § 406, 83 Stat. 175.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 406, amended subsection (a) by enlarging the authority of the Commissioner to make rules and regulations relating to reinstatement of a license or registration as above set out.

EFFECTIVE DATE OF 1969 AMENDMENTS

Section 407 of Pub. L. 91-106, title IV, provided: "The amendments made by this title (amending section 40-102, 40-103, 40-201, 40-603, 40-301, and 40-419) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]"

**AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS**

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other

sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(294) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 40-420. Review by Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-421. Abstract of operating record.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-422. Information regarding financial responsibility to be furnished person injured.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-423. Service of process on nonresident.

REFERENCES IN TEXT

Section 13-108, referred to in subsection (a) of this section, was repealed by act Dec. 23, 1963, 77 Stat. 620, Pub. L. 88-241, eff. Jan. 1, 1964, and is now covered by sections 13-336 and 13-337.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-493.

NOTES TO DECISIONS

Construction

In authorizing substituted service on nonresident motorists, in derogation of the common law, Motor Vehicle Safety Responsibility Act affects substantial rights and must therefore be strictly construed and strictly complied with. *R. J. Heinrich v. R. S. Huke* (D.C. App. 1968, 244 A. 2d 915).

Delay in delivery of summons and complaint to Marshal

Failure of plaintiff to deliver summonses and copies of complaint to the United States Marshal until 18 days after period of limitations had run was not excusable because of fact that two of corporate defendants were not residents of the District of Columbia and could not be sued and would not be served until plaintiff first filed traffic act bond required by D.C. Code. *Criterion Insurance Company, etc. v. W. L. Lyles, et al.* (D.C. App. 1968, 244 A. 2d 913).

Delay in mailing summons and complaint

Although copies of summons and complaint were served upon Director of Motor Vehicles in action arising out of motor vehicle collision in District of Columbia with nonresident motorist, mailing summons and complaint to nonresident motorist seven months after statute of limitations had run constituted failure to comply with statutory requirement that notice of such service and copy of process be sent "forthwith" by registered mail. *R. J. Heinrich v. R. S. Huke* (D.C. App. 1968, 244 A. 2d 915).

Filing of return receipt

Filing of return receipt is not an integral part of the District of Columbia Motor Safety Responsibility Act which authorizes substituted service on nonresident motorist since jurisdiction attaches when service is made on the Director of Motor Vehicles and the nonresident receives copies of the process and notice of service. *M. L. Harper v. E. W. Catherton, Jr.* (D.C. App. 1969, 255 A. 2d 492).

Place of service of notice

Although defendant was a resident of Maryland at the time service was purported to have been made under the District of Columbia Motor Safety Responsibility Act that fact did not render notice to the defendant in Virginia at his place of work ineffective, as the statute requires that notice of such service be sent to defendant, not to him at his residence. *M. L. Harper v. E. W. Catherton, Jr.* (D.C. App. 1969, 255 A. 2d 492).

Notice is essential to the court's jurisdiction. *Id.*

Proof of service of notice

Since there was no conclusive proof one way or the other that nonresident motorist actually received notice of service, purported to have been made under the District of Columbia Motor Safety Responsibility Act, it was not error to vacate default judgement previously entered against motorist. *M. L. Harper v. E. W. Catherton, Jr.* (D.C. App. 1969, 255 A. 2d 492).

§ 40-424. Operator deemed to be agent of owner.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-493.

NOTES TO DECISIONS

Action against owner of vehicle

The fact that D.C. Employees Non-Liability Act barred an action by a passenger-schoolteacher against a driver-schoolteacher did not preclude an action by passenger-schoolteacher against the owner of the vehicle. *F. P. Davis et ano. v. P. O. Harrod et ano.* (1969, 407 F. 2d 1280, 132 U.S. App. D.C. 345).

Common law presumption

As to an area which is not covered by District of Columbia Financial Responsibility Law, plaintiff was entitled to common-law presumption. *F. O. Gaither v. C. R. Myers et ano.* (1968, 404 F. 2d 216, 131 U.S. App. D.C. 216, see also 232 A. 2d 577).

Consent

The "consent" which is contemplated by a statute creating a presumption that motor vehicle was being operated with the consent of the owner is an informed consent, based on knowledge, not clouded by mistake or misrepresentation, or produced by error of fact. *J. A. McClellan v. Allstate Insurance Company etc., et al.* (D.C. App. 1968, 247 A. 2d 58).

A presumption that a motor vehicle involved in an accident was being operated with the consent of owner is a rebuttable one and continues only until overcome by uncontradicted proof sufficient to destroy the inference. *Id.*

Evidence overcoming presumption

Statutory presumption that proof of ownership of motor vehicle shall be prima facie evidence that motor vehicle was being operated with consent of owner may be overcome by uncontradicted denial by the owner, and in such a case a directed verdict for owner is proper. *C. R. Meyers et ano. v. F. O. Gaither* (D.C. App. 1967, 232 A. 2d 577; remanded 404 F. 2d 216).

Evidence that automobile of defendant was involved in accident in Maryland about 11:30 p.m., that it was not until about 3:30 a.m., after repeated telephone calls, that police succeeded in contacting owner, and testimony of owner that he had been at his home all evening made question for jury whether automobile was being operated by owner or with owner's consent. *Id.*

Extra territorial effect

The District of Columbia Financial Responsibility Law was inapplicable where at the time of injury the automobile was being operated in Maryland. *F. O. Gaither v. C. R. Myers et ano.* (1968, 404 F. 2d 216, 131 U.S. App. D.C. 216, see also 232 A. 2d 577).

Application of evidentiary clause of District of Columbia statute that proof of ownership of automobile shall be prima facie evidence that automobile was operated with consent of owner to trial of cause of action arising from operation of automobile in Maryland did not give statute extra-territorial effect. *C. R. Meyers et ano. v. F. O. Gaither* (D.C. App. 1967, 232 A. 2d 577; remanded 404 F. 2d 216).

Issue of permission to use automobile

Evidence on the issue of whether defendant automobile owner consented to use of her automobile by defendant driver, who was an employee of corporation of which owner was a major stockholder, and who had used owner's automobile on other occasions, and with whom owner left her keys and note about certain errands, was for the jury in action for damages sustained by plaintiffs in collision with that automobile. *M. Williams v. M. Baines and F. Baines* (D.C. App. 1969, 257 A. 2d 762).

§ 40-425. Motor Vehicle Owners' and Operators' Financial Responsibility Fund, D.C.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-426. Report of accident required.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-428, 40-431, 40-433, 40-487, 40-493.

§ 40-427. Form of accident report.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-426, 40-428, 40-431, 40-433, 40-493.

§ 40-428. Incapacity of person to make an accident report.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 40-426, 40-431, 40-433, 40-487, 40-493.

§ 40-429. Additional information concerning accident to be furnished on request.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-426, 40-428, 40-431, 40-433, 40-487, 40-493.

§ 40-430. Suspension of license and registration for failure to report.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-426, 40-428, 40-431, 40-433, 40-493.

§ 40-431. Accident reports to be confidential.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 40-426, 40-428, 40-433, 40-493.

§ 40-432. Application of chapter—Amount.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-433. Determination of the amount of security.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-434. Exceptions to requirements as to security and suspension.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-435 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-435. Automobile liability policy or bond—Requirements.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-436. Security—Form and amount.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-437, 40-438, 40-440, to 40-444, 40-446, 40-448, 40-449.

§ 40-437. Failure to deposit security—Suspensions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436, 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-438. Release from liability.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436, 40-437, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-439. Adjudication of nonliability—Release from requirement of the deposit of security.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-440. Agreements for payment of damages.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-441 to 40-444, 40-446, 40-448, 40-449.

§ 40-441. Payment upon judgment—Release of judgment debtor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440, 40-442 to 40-444, 40-446, 40-448, 40-449.

§ 40-442. Termination of security requirement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440, 40-441, 40-443, 40-444, 40-446, 40-448, 40-449.

§ 40-443. Duration of suspension.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-442, 40-444, 40-446, 40-448, 40-449.

§ 40-444. Nonresidents—Unlicensed drivers—Unregistered vehicles—Accidents in other States.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-443, 40-446, 40-448, 40-449.

§ 40-445. Commissioners authorized to decrease amount of security.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-446. Correction of Commissioners' action within one year.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-448, 40-449.

§ 40-447. Disposition of security.

SECTION REFERRED TO IN OTHER SECTIONS

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448, 40-449.

§ 40-448. Return of deposit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-449.

§ 40-449. Matters not to be evidence in civil suits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-434, 40-436 to 40-438, 40-440 to 40-444, 40-446, 40-448.

§ 40-450. Persons required to deposit proof of future responsibility.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-451. Proof of financial responsibility for the future.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474, 40-476.

§ 40-452. "Judgment" and "State" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-453, 40-462, 40-474.

§ 40-453. Suspension of license and registration for certain convictions—Effect of proof of financial responsibility—Vehicles owned or leased by the United States, a State, or a political subdivision thereof—Suspension for out of District convictions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-462, 40-474.

§ 40-454. Duration of suspension—Giving and maintenance of proof of financial responsibility.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-455. Suspension of unlicensed or licensed person after certain convictions—Proof of financial responsibility required—Certificate of conviction to be forwarded to Commissioners.

(a) If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for driving a motor vehicle within the District of Columbia at a time when his license is suspended or revoked, the operating privilege of such person shall be suspended and no license shall thereafter be issued to such person, but if such person has obtained a license prior to the time the Commissioners have issued an order precluding the issuance of such license, then such license shall be suspended; and no vehicle shall continue to be registered or thereafter be registered in the name of such person as owner, unless such person shall give and thereafter maintain proof of financial responsibility.

(b) It shall be the duty of the clerk of the court in which any such conviction or forfeiture is ordered to forward immediately to the Commissioners a certified copy of said order, which certified copy shall be prima facie evidence of the facts stated therein. (May 25, 1954, 68 Stat. 131, ch. 222, § 39; Aug. 28, 1958, 72 Stat. 956, Pub. L. 85-792, § 10; Oct. 17, 1968, Pub. L. 90-589, § 1, 82 Stat. 1152.)

AMENDMENTS

1968—Act, Oct. 17, 1968, Pub. L. 90-589, amended subsection (a) by striking out the following language: "trial for:

"(1) Driving a motor vehicle upon the highways without being licensed to do so under the laws of the District of Columbia when so required; or

"(2) Driving a vehicle not registered under the laws of the District of Columbia when so required; the operating privilege" and inserting in lieu thereof the following: "trial for driving a motor vehicle within the District of Columbia at a time when his license is suspended or revoked, the operating privilege".

1958—Aug. 28, 1958, amended section generally, and among other changes, added provision for suspension of license obtained prior to issuance of order precluding issuance of such license, and also added paragraph (b) respecting duty of clerk of court in which conviction or forfeiture is ordered to forward copy of such order to Commissioners.

EFFECTIVE DATE

Section effective one year after May 25, 1954, see section 87 of act May 25, 1954, set out as a note under § 40-417.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-456. Suspension of nonresidents' operating privilege—Duration.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-457. Report by courts of nonpayment of judgments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-458. Judgment against a nonresident—Transmittal of copy to license and registration official of defendant's State.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-459. Suspension for nonpayment of judgment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-460, 40-462, 40-474.

§ 40-460. Government vehicles—Exception as to non-payment of judgment provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-463, 40-474.

§ 40-461. Consent by judgment creditor to allowance of license, registration, or operating privileges to judgment debtor.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-463, 40-474.

§ 40-462. Commissioners finding that an insurer is obligated to pay judgment—Effect of finding—License, registration and operating privileges in the event of a finding.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-474.

§§ 40-463 to 40-465.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-466. Installment payment of judgments—Default.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-461 to 40-463, 40-474.

§ 40-467. Breach of agreement to pay in installments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§§ 40-468, 40-469.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-470. Certificate of insurance as proof.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-469, 40-473, 40-474.

§ 40-471. Certificate filed by nonresident as proof of financial responsibility.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-469, 40-473, 40-474.

§ 40-472. Default by nonresident insurance carrier.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-473. "Motor-vehicle liability policy" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-474. Notice of cancellation or termination of certified policy.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462.

§ 40-475. Provisions of chapter not to affect other policies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-476. Surety bond as proof of financial responsibility.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-469, 40-474.

§ 40-477. Bond a lien against scheduled real estate—Recording—Notice.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-469, 40-474.

§ 40-478. Action on bond.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-479. Deposit of money with Commissioners—Certificate—Evidence of no unsatisfied judgments.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-469, 40-474.

§ 40-480. Application of money deposit—Limits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-481. Owner of a motor vehicle may give proof for others.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-482. Substitution of proof.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-483. Requirement of other proof of financial responsibility—Prior proof—Suspension.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474.

§ 40-484. Duration of proof—Cancellation or return of proof.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-452, 40-453, 40-462, 40-474, 40-498c.

§ 40-485. Transfer of registration to defeat purpose of chapter.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-486. Surrender of license and registration.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-490.

§ 40-494. Self-insurers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-469.

Chapter 5.—PUBLIC-OWNED VEHICLES

§ 40-501. Motor vehicles to be marked.

USE OF PUBLICLY-OWNED VEHICLES

Provisions similar to those set out under the above heading as a note to this section in the main volume are repeated in section 10 of the District of Columbia Appropriations Act of Nov. 13, 1967, Pub. L. 90-134, 81 Stat. 440, as follows:

"All motor-propelled passenger-carrying vehicles (including watercraft) owned by the District of Columbia shall be operated and utilized in conformity with section 16 of the Act of August 2, 1946 (60 Stat. 810), and shall be under the direction and control of the Commissioners, who may from time to time alter or change the assignment for use thereof, or direct the alteration of interchangeable use of any of the same by officers and employees of the District, except as otherwise provided in this Act. 'Official purposes' shall not apply to the Commissioners of the District of Columbia or in cases of officers and employees the character of whose duties makes such transportation necessary, but only as to such latter cases when the same is approved by the Commissioners."

Similar provisions are contained in the following appropriation Act:

1970—Dec. 24, 1969, Pub. L. 91-155, § 10, 83 Stat. 432.

1969—Aug. 10, 1968, Pub. L. 90-473, § 10, 82 Stat. 699.

Chapter 6.—REGULATION OF TRAFFIC

§ 40-601. Short title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

§ 40-602. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

§ 40-603. Commissioners authorized to make regulations—Department of Vehicles and Traffic—Director—Congressional tags—Titling—Joint board—Arterial and boulevard highways—Commissioners may prescribe penalties—Publication of regulations—Signs on highways—Prosecutions—Excise tax imposed for issuance of motor vehicle title certificates.

(a) The Commissioners of the District of Columbia are authorized and empowered to make, modify, repeal, and enforce usual and reasonable traffic rules and regulations relating to vehicles, and rules and regulations concerning the control of traffic, the registration of motor vehicles, and the issuance, suspension, and revocation of operators' permits and the suspension and revocation of operating privileges, including rules and regulations assessing reasonable fees to reimburse the District for the cost of restoring suspended or revoked operators' permits and privileges, such fees not to exceed the amount of \$10 per restoration and to exercise any power or perform any duty imposed on the director of traffic, which office is hereby abolished; and in the administration of the above powers and authority the commissioners may exercise the same through such officers or agents of the District as the commissioners may designate: *Provided*, That no member of the Metropolitan Police Department may be empowered to perform any function under this chapter other than in the enforcement thereof.

* * * * *

(c) The Commissioners of the District of Columbia are authorized and empowered to make, modify, and enforce reasonable regulations in respect to brakes, horns, lights, mufflers, and other equipment, the inspection of the same; the registering, reregistering, titling, retitling, transferring of titles, and revocation of the certificate of title to motor vehicles and trailers: *Provided*, That congressional tags shall be issued by the commissioners under consecutive numbers, one to each Senator and Representative in Congress, to the elective officers and disbursing clerks of the Senate and the House of Representatives, Comptroller of the Senate, the chief clerk of the Senate, the Parliamentarian of the Senate, the Parliamentarian of the House of Representatives, the attending physician of the Capitol, and the assistant secretaries (one for the majority and one for

the minority of the Senate), for their official use, which, when used by them individually while on official business, shall authorize them to park their automobiles in any available curb space in the District of Columbia, except within fire plug, fire house, loading station, and loading platform limitations, and such congressional tags shall not be assigned to or used by others: *Provided further*, That such congressional tags shall be valid only for the Congress in which such tags are so issued, and it shall be unlawful to display such congressional tags for a period longer than thirty days after the opening of the next Congress.

Any person violating this section shall be fined not more than \$300 or imprisoned not more than ninety days, or both.

(d) The commissioners shall cause to be levied, collected, and paid such fees for titling and retitling as they deem necessary, not to exceed the sum of \$5 for each such titling or retitling, and they shall not, after the 1st day of January, 1932, register or renew the registration of any motor vehicle or trailer unless and until the owner thereof shall make application in the form prescribed by the commissioners and be granted an official certificate of title for such vehicle. No registration or other fee shall be charged to vehicles owned by the federal or District government or any duly accredited representative of a foreign government. The owner of a motor vehicle or trailer registered in the District of Columbia shall not, after the 1st day of January, 1932, operate or permit or cause to be operated any such vehicle upon any public highway in the District without first obtaining a certificate of title therefor, nor shall any individual knowingly permit any certificate of title to be obtained in his name for any vehicle not in fact owned by him, and any individual violating any provision of this subsection or any regulations promulgated thereunder shall be fined not more than \$1,000 or imprisoned not more than one year, or both. If the properly designated agent of the commissioners shall determine that an applicant for a certificate of title is not entitled thereto, such certificate of title may be refused, and in that event unless such determination is reversed upon written application to the commissioners by the individual affected, such individual shall be entitled to proceed further as provided under section 40-302(a), and jurisdiction is conferred upon the United States Court of Appeals for the District of Columbia for this purpose: *Provided*, That reasonable time for hearing be given the applicant in the first instance.

* * * * *

(j) In addition to the fees and charges levied under other provisions of this chapter, there is hereby levied and imposed an excise tax for the issuance of every original certificate of title for a motor vehicle or trailer in the District, and for the issuance of every subsequent certificate of title for a motor vehicle or trailer in the District in the case of sale or resale thereof, at the rate of 4 per centum of the fair market value of such motor vehicle or trailer at the time such certificate is issued, as determined by the Assessor of the District of Columbia or his duly authorized representatives. As used in this section, the term "original certificate of title" shall

mean the first certificate of title issued by the District of Columbia for any particular motor vehicle or trailer. No certificate of title so issued shall be delivered or furnished to the person entitled thereto until the tax has been paid in full. The Assessor of the District of Columbia may require every applicant for a certificate of title to supply such information as he deems necessary as to the time of purchase, the purchase price, and other information relative to the determination of the fair market value of any motor vehicle or trailer for which a certificate of title is required and issued. The issuance of certificates of title for the following motor vehicles and trailers shall be exempt from the tax imposed by this subsection:

(1) Motor vehicles and trailers owned by the United States or the District of Columbia.

(2) Motor vehicles and trailers purchased or acquired by nonresidents prior to coming into the District of Columbia and establishing or maintaining residences in the District.

(3) Motor vehicles and trailers purchased or acquired by nonresidents prior to coming into the District of Columbia and establishing or maintaining a business or businesses in the District. Except as hereinafter provided, it is not intended to exempt from the tax the issuance of certificates of title for motor vehicles and trailers owned by nonresidents who are engaged in business in the District at the time of their purchase or acquisition of such vehicles and trailers and who use such vehicles and trailers in the conduct of their District business or businesses.

(4) Motor vehicles and trailers owned by a utility or public service company for use in furnishing a commodity or service: *Provided*, That the receipts from furnishing such commodity or service are subject to a gross-receipts or mileage tax in force in the District of Columbia at the time of a certificate of title for any such vehicle or trailer is issued.

(5) New motor vehicles acquired from dealers as replacements for defective vehicles purchased new not more than sixty days prior to the date of such replacement, except that if the fair market value of any replacement vehicle is greater than that of the vehicle which it replaces, than the tax imposed by this section shall be paid on such difference in value. If the fair market value of any replacement vehicle is less than that of the vehicle which it replaces, then the Commissioners or their designated agent are authorized to refund to the owner of the replacement vehicle an amount equal to the difference between the excise tax paid on the defective vehicle and the excise tax paid on the replacement vehicle. (As amended Dec. 4, 1967, Pub. L. 90-172, § 1, 81 Stat. 532; Oct. 31, 1969, Pub. L. 91-106, titles II, IV, §§ 201, 404, 83 Stat. 172, 174; Dec. 12, 1969, Pub. L. 91-145, § 101, 83 Stat. 343.)

AMENDMENTS

1969—Section 101, Act Dec. 12, 1969, Pub. L. 91-145, 83 Stat. 343, Amended subsec. (c) by inserting after "Senate and House of Representatives," the "Comptroller of the Senate."

Act Oct. 31, 1969, Pub. L. 91-106, §§ 201 and 404 amended section as follows: Subsection (a) struck out \$5 fee of restoration of permits and changed it to \$10; subsection (d) changed the fee from \$1 to \$5; and in subsection (j) changed the rate from 3 to 4 per centum.

1967—Sec. 1, Act Dec. 4, 1967, Pub. L. 90-172 amended the first sentence of subsection (d) by striking out “, under oath,”.

EFFECTIVE DATE OF 1969 AMENDMENT

Sections 202 and 407, Pub. L. 91-106, titles II, and IV provided: “The amendment made by this title (amending sec. 40-603(a)(d) and (j)) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. (Nov. 1969.)”

ABOLISHMENT OF JOINT BOARD CREATED UNDER SUBSECTION (e)

Section 503(c) of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

“The joint board authorized and created by section 6(e) of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40-603(e)), together with its functions, is hereby abolished.”

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTION

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act, [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

“(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(295 to 299) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (c), (e), (f) and (g) in the particulars described in pars. 295 to 299, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-127, 40-102, 40-603-1, 40-603b, 40-612, 43-907, 47-2331, 47-2333.

NOTE TO DECISIONS

Excessive penalties in indigent cases

Where maximum penalty for jaywalking was fine of \$300 or imprisonment of 10 days or both and indigent defendant received a sentence of a fine of \$150 or 60 days' imprisonment, imprisonment was 50 days in excess of maximum which could have been imposed. *C. F. Sawyer v. District of Columbia* (D.C. App. 1968, 238 A. 2d 314).

Where defendant is indigent, sentence of imprisonment in default of payment of fine which exceeds maximum term of imprisonment which could be imposed under substantive statute as original sentence is an invalid exercise of court's discretion. *Id.*

§ 40-604. Parking space for Members of Congress.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(300) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

§ 40-604a. Parking of automobiles in Municipal Center—Regulations—Violations and penalties.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(301, 302, and 303) of Reorg. Plan. No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in pars 301, 302 and 303, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-808.

§ 40-605. Speeding and reckless driving.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-127, 40-612, 47-2331.

§ 40-606. Negligent homicide.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-608, 40-609a.

NOTES TO DECISIONS

Causal connection

In a prosecution for negligent homicide, causal connection between injuries received in an automobile accident by decedent and his death must be proven beyond a reasonable doubt. *S. J. Stevens v. United States* (D.C. App. 1969 249 A. 2d 514).

Evidence that decedent who died of a coronary occlusion five weeks after the automobile accident and was debilitated by the injuries sustained in the accident and that it was possible that state of debility precipitated the heart attack was insufficient to establish causal connection between injuries sustained in the accident and death and did not support a conviction for negligent homicide. *Id.*

Criticism of defense counsel

Unjustified criticizing of defense counsel for being unfair to government witness, taking over examination of four defense witnesses, consuming with two of them considerable time on extraneous matters placing them in bad light, and rebuking defense counsel for unfair questions or tactics and stopping him in course of examination and making belittling or sardonic remarks required new trial on charge of negligent homicide. *A. C. Williams v. United States* (D.C. App. 1967, 228 A. 2d 846).

Dismissal with prejudice

Absent any notation on record or oral statement by judge in prior prosecution for negligent homicide that he was dismissing case with prejudice, trial court's conclusion in dismissing second case against defendant for negligent homicide that the prior dismissal has been on speedy trial grounds and was intended to be dismissed with prejudice was not warranted. *United States v. W. J. Young* (D.C. App. 1968, 232 A. 2d 542).

Elements of proof required by government

In a prosecution for negligent homicide, government must prove three elements: (1) death of human being, (2) by instrumentality of motor vehicle, (3) operated at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not wilfully or wantonly. *S. J. Stevens v. United States* (D.C. App. 1969, 249 A. 2d 514).

Speedy trial

Where government took approximately two months to reinstate charge against defendant for negligent homicide after first charge had been dismissed and case did not come for trial, due to delays wholly attributable to government, for seven and one-half months after date of accident and defendant, a taxicab driver, has his license revoked until disposition of charge against him, defendant has been prejudiced by the delay and had been denied speedy trial. *United States v. W. J. Young* (D.C. App. 1968, 237 A. 2d 542).

§ 40-607. Negligent homicide included in manslaughter where death due to operation of vehicle.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-608.

§ 40-609. Fleeing from scene of accident—Driving under the influence of liquor or drugs.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 25-127, 40-609a, 40-612, 47-2331.

NOTES TO DECISIONS

Evidence—sufficiency

Evidence was ample to support the jury's finding that defendant was operating a motor vehicle while under the influence of intoxicating liquor. *R. B. Kelly v. District of Columbia* (D.C. App. 1967, 233 A. 2d 503).

Urine specimen—Admissibility as evidence

Questioning by an officer of a defendant, who was charged with driving while under influence of intoxicating

liquor and who was upset and sobbing and who was told that he did not have to take urine test but that if he did not it would be his word against the policeman's, but who was not physically abused, was not conduct which was so outrageous as to require exclusion of results of urine test. *J. E. Davis v. District of Columbia* (D.C. App. 1968, 247 A. 2d 417).

Urine specimen is admissible at the trial for driving while under the influence of intoxicating liquor despite absence of medical supervision at time of taking of test. *Id.*

Evidence was sufficient to support trial court's finding that defendant charged with driving while under the influence of intoxicating liquor voluntarily gave urine specimen admitted at trial though officer had used considerable powers of persuasion to obtain the specimen. *Id.*

§ 40-609a. Operating of vehicles while under the influence of intoxicating liquor and in violation of other laws—Prima facie evidence of intoxication—Relevant evidence of use of intoxicating liquor—Results of tests available to tested person—Blood test—Only physician at request of police may withdraw blood—Tested person may have private physician make added test—Test not compulsory.

NOTES TO DECISIONS

Urine specimen—Admissibility as evidence

Questioning by an officer of a defendant, who was charged with driving while under influence of intoxicating liquor and who was upset and sobbing and who was told that he did not have to take urine test but that if he did not it would be his word against the policeman's, but who was not physically abused, was not conduct which was so outrageous as to require exclusion of results of urine test. *J. E. Davis v. District of Columbia* (D.C. App. 1968, 247 A. 2d 417).

Urine specimen is admissible at the trial for driving while under the influence of intoxicating liquor despite absence of medical supervision at time of taking of test. *Id.*

§ 40-610. Smoke screens.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-603, 47-2331.

§ 40-611. Reporting by garage keeper of cars damaged in accidents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

§ 40-612. Convictions to be reported.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 25-127.

§ 40-613. Control over park system not affected by this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

NOTES TO DECISIONS

Bus tours on Capitol Mall

A certificate of convenience and necessity is not required of a concessionaire under contract with Secretary of Interior to conduct bus tours of Capitol Mall from Washington Metropolitan Area Transit Commission. *Universal Interpretive Shuttle Corporation v. Washington Metropolitan Area Transit Commission et al.* (1968, 89 S. Ct. 354, rev'g 390 F. 2d 474).

Transit system's franchise did not give it absolute monopoly of sightseeing service on Capitol Mall and it was not protect system against competition from concessionaire acting under contract with Secretary of Interior. *Id.*

§§ 40-614, 40-615.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2331.

§ 40-616. Parking meters.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(304) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations for the control of parking and prescribing fees, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-804, 40-808.

§ 40-617. Loitering by public cabs.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(305) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making regulations under the last sentence of the sections, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 7.—LIENS ON MOTOR VEHICLES OR TRAILERS**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 28:9-203, 28:9-302.

§ 40-701. Definitions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42-104, 45-701.

§ 40-702. Lien to appear on certificate of title—Effect of other liens.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 42-104, 45-701.

§ 40-703. Entry of lien—Priority.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 40-709, 42-104, 45-701.

§ 40-704. Entry of lien—Form and requirements of instrument creating lien—When lien not entered.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 42-104, 45-701.

§ 40-705. Liens to be kept by recorder in director's office.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 42-104, 45-701.

§ 40-706. Liens shown by application for certificate—Entry of lien—Collection of fees—Absence of liens to be shown—Certificate to holder of first lien.

Applications for certificates, in addition to all other matters which may be required by law, shall show whether or not there are any liens against the motor vehicle or trailer or any equipment or accessories affixed thereto and if so, the lien information in the order of its priority, and shall be accompanied by instruments or any other papers necessary to entitle liens to be entered on the certificate.

* * * * *

(As amended Dec. 4, 1967, Pub. L. 90-172, § 2, 81 Stat. 532.)

AMENDMENT

1967—Sec. 2, Act Dec. 4, 1967, Pub. L. 90-172, amended the first sentence by striking out "under oath".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-707, 40-711, 42-104, 45-701.

§§ 40-707 to 40-711.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in sections 42-104, 45-701.

§ 40-712. Fees.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 40-712a, 42-104, 45-701, 45-714.

§ 40-712a. Fee for releasing liens.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 45-714.

§§ 40-713 to 40-715.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in sections 42-104, 45-701.

Chapter 8.—REGULATION OF PARKING**§ 40-803. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-804. Commissioners' Powers — Acquisition of property—Construction and maintenance—Leasing to private interests—Disposal of property—Establishment of rates—Miscellaneous rules and regulations—Parking meters.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(306 and 307) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (d) and (e) in the particulars described in pars. 306 and 307, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-805.

§ 40-805. Motor-Vehicle Parking Agency—Creation and composition—Term—Powers.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-803.

§ 40-807. Records and data available—Additional surveys.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-808. Disposition of fees and moneys collected.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 40-804.

§ 40-809. Appropriations—Employment of director—Salaries of employees—Salaries of members of agency.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 40-809a. Acquisition of new parking facilities prohibited—Operation and expansion of existing facilities—Exempt facilities.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-808.

§ 40-810. Parking restrictions—Vehicles impounded—Penalties.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(308) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to fixing the amount of collateral, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-811.

§ 40-811. Same—United States public buildings and property—Regulations—Penalties.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 40-810.

Chapter 9.—INSTALLMENT SALES OF MOTOR VEHICLES**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in section 28:9-203.

§ 40-901. Definitions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(309) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (4) with respect to including fees within the definition of the term "Governmental charges", to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§ 40-902. Maximum finance charges—Computation—Proportionate adjustments—Investigation of economic conditions to determine finance charges—Regulations—Classification of parties—Waiver.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402 (310 to 314) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (d), (e) (1), (2), (3) and (f) in the particulars described in pars. 310 to 314, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§ 40-903. Bonding of automobile dealers and applicants—Liability Insurance—Designation of Commissioners as agents for service of process—Limitation on bonds—Action on bonds.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(315) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) in the particulars described in par. 315, to

the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§ 40-904. Delegation of functions—Exception.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 35-1361.

§ 40-905. Promulgation of regulations—Public hearings.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(316) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§§ 40-906, 40-907.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 35-1361.

§ 40-908. Corporation counsel to conduct prosecutions.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§ 40-909. Additional authority granted to Commissioners.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 35-1361.

§ 40-910. Separability of provisions.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 35-1361.

TITLE 41.—PARTNERSHIPS

Chapter 1.—LIMITED PARTNERSHIPS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 41-429.

§§ 41-101 to 41-109, 41-111, 41-113 to 41-131.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 41-429.

Chapter 2.—DISSOLUTION AND PAYMENT OF DEBTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 16-2106.

Chapter 3.—UNIFORM PARTNERSHIPS

PART III

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

§ 41-308. Partner agent of partnership as to partnership business.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-309.

§§ 41-312, 41-313.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 41-314.

§ 41-315. Partner by estoppel.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-334.

§ 41-316. Liability of incoming partner.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-306.

PART IV

RELATIONS OF PARTNERS TO ONE ANOTHER

§ 41-317. Rules determining rights and duties of partners.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-339.

§ 41-320. Partner accountable as a fiduciary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-321.

PART V

PROPERTY RIGHTS OF A PARTNER

§§ 41-326, 41-327.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 41-331.

PART VI

DISSOLUTION AND WINDING UP

§ 41-331. Dissolution by decree of court.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-330.

§§ 41-333, 41-334.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 41-332.

§ 41-335. Effect of dissolution on partner's existing liability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-337.

§ 41-337. Rights of partners to application of partnership property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41-340, 41-341.

§ 41-340. Liability of persons continuing the business in certain cases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-341.

Chapter 4.—UNIFORM LIMITED PARTNERSHIPS

§ 41-402. Formation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41-401, 41-425, 41-429.

§ 41-406. Liability for false statements in certificate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-418.

§§ 41-415, 41-416.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 41-410.

§ 41-417. Liability of limited partner to partnership.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 41-418.

§ 41-425. Requirements for amendment and for cancellation of certificate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41-406, 41-407, 41-418.

TITLE 42.—PERSONAL PROPERTY

Chapter 1.—RECORDATION OF INSTRUMENTS

§ 42-101. Repealed. Dec. 30, 1963, 77 Stat. 774, Pub. L. 88-243, § 15(a)(11), effective Jan. 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 42-104.

§ 42-103. Repealed. Dec. 30, 1963, 77 Stat. 774, Pub. L. 88-243, § 15(a)(11), effective Jan. 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 42-104.

NOTES TO DECISIONS

Unrecorded conditional sales contract

An unrecorded conditional sales contract is valid against all except third persons acquiring title [purchasers for value] without notice, and it has long been settled that prior mortgagees, in whose stead trustees stand, are not, nor do they occupy position of third parties, since they are in no sense purchasers who have given value for property acquired subsequent to their mortgage. *The Hobart Mfg. Co. v. A. Vozeolas and J. Hillman* (D.C. App. 1969, 255 A. 2d 502).

In a case where a conditional seller of a bakery mixer took in trade a mixer which had been secured by a chattel

deed of trust but did not record the conditional sale, and after the buyer had defaulted in payment to seller of original mixer the trustees contacted an auctioneer to inventory the property and to publicly advertise the auction, and though inventory was taken the discrepancy in serial numbers of mixer was not detected, and new mixer was sold and proceeds remitted to secured parties, the trustees, as parties to conversion of conditional seller's mixer, could be sued for its value, however, since the value of the mixer exceeded the unpaid balance of conditional sales contract, conditional seller was entitled to recover only the amount due under its contract. *Id.*

§ 42-107. False statements—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 43.—PUBLIC UTILITIES

Chapter 1.—DEFINITION OF TERMS AND APPLICATION OF LAW

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-104. Service.

NOTES TO DECISIONS

Service, defined

Advertising published in the classified telephone directory did not constitute a "service" and the Public Service Commission did not have statutory jurisdiction to regulate the rates charged for advertising in the classified directory. *The Classified Directory Subscribers Association et al. v. Public Service Commission of the District of Columbia* (1966, 274 F. Supp. 261; aff'd 383 F. 2d 510).

Chapter 2.—CREATION OF PUBLIC SERVICE COMMISSION — MEMBERS — COUNSEL — EMPLOYEES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-201. Members — Eligibility of Commissioners — Oath.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

"(1) Board of Education (including the public school system)

"(2) Board of Library Trustees (including the public libraries)

- "(3) Recreation Board
- "(4) Public Service Commission
- "(5) Zoning Commission
- "(6) Zoning Advisory Council
- "(7) Board of Zoning Adjustment
- "(8) Office of the Recorder of Deeds
- "(9) Armory Board"

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-203.

§§ 43-202 to 43-208.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2331 [erroneously described in subsection (f) as section 40-1001 to 40-1007].

§ 43-209. Authority of District of Columbia Commissioners to continue—Ordinances and regulations to remain in force until modified by the Public Service Commission.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331 [erroneously described in subsection (f) as section 40-1001 to 40-1007].

Chapter 3.—SERVICE, VALUATION, ACCOUNTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-301. Public utilities—Service and facilities—Charges to be reasonable, just, and nondiscriminatory—To obey orders of Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46-303.

NOTES TO DECISIONS

Service, defined

"Yellow Pages" advertising, was not a public utility "service" or "facility" within statute providing that every public utility doing business within the District of Columbia is required to furnish service and facilities in all respects just and reasonable, and hence the public service commission lacked jurisdiction to regulate the rates and practices of telephone company with respect to its yellow pages classified telephone directory. *The Classified Directory Subscribers Association v. Public Service Commission of the District of Columbia* (1967, 383 F. 2d 510, 127 U.S. App. D.C. 315).

Not all services offered by a public utility are regulable under statute providing that every public utility doing business within the District of Columbia is required to furnish service and facilities in all respects just and reasonable. *Id.*

§ 43-303. Commission to compel compliance with chapters 1-10 of this title, with laws, ordinances, and charter—Criminal liability continued.

NOTES TO DECISIONS

Service, defined

"Yellow Pages" advertising was not a public utility "service" or "facility" within statute providing that every public utility doing business within the District of Columbia is required to furnish service and facilities in all respects just and reasonable, and hence the public service commission lacked jurisdiction to regulate the rates and practices of telephone company with respect to its yellow pages classified telephone directory. *The Classified Directory Subscribers Association v. Public Service Commission of the District of Columbia* (1967, 383 F. 2d 510, 127 U.S. App. D.C. 315).

Not all services offered by a public utility are regulable under statute providing that every public utility doing business within the District of Columbia is required to furnish service and facilities in all respects just and reasonable. *Id.*

§ 43-325. Copy of rate schedule to be available for public inspection.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-326.

Chapter 4.—RATES, EXAMINATIONS, INVESTIGATIONS, AND HEARINGS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-406. Appointment of investigating agents — Powers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-418.

§ 43-410. Notice as to hearings—Compulsory attendance of witnesses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-411, 43-416, 43-702.

§ 43-412. Expenses of investigation or revaluation to be borne by utility—Deposit for costs—Limitation of expenditures in rate and revaluation hearings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-711.

Chapter 5.—SALE AND MERGER OF UTILITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-503. Merger of street railways permitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-502.

Chapter 6.—GAS AND ELECTRIC CORPORATIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

Chapter 7.—ORDERS AND COURT PROCEEDINGS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-704. Application to District Court for instructions—Application for reconsideration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-707, 43-710, 43-711.

§ 43-705. Appeal to District Court from certain orders—Precedence over other civil causes—Proceeding when additional evidence proper—Statement to accompany decision—Subsequent appeals—Commission not liable for costs or damages.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-710, 43-711.

NOTES TO DECISIONS

Public interest

Finding that gas rates, embodied in contractual arrangements reached between gas company and apartment and office building owner for supplying steam and chilled water for heating and air-conditioning of building to be constructed, were lawful and not against the public interest as supported by substantial evidence and as not arbitrary or capricious. *Association of Fair Competitive Practices In Air Conditioning, Inc. v. Public Service Commission of the District of Columbia, et al.* (1967, 372 F. 2d 934, 125 U.S. App. D.C. 361).

Scope of inquiry

District of Columbia Public Service Commission was not, out of issues generated in case respecting approval of rate embodied in contractual arrangements between gas company and owner of apartment and office building for the supplying of steam and chilled water for heating and air-conditioning building, required to range beyond the scope of application before it and to make a wide ranging inquiry into general merchandising practices of gas company with respect to air-conditioning equipment. *Association of Fair Competitive Practices In Air Conditioning, Inc. v. Public Service Commission of the District of Columbia, et al.* (1967, 372 F. 934, 125 U.S. App. D.C. 361).

§§ 43-706 to 43-709.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 43-710, 43-711.

§ 43-710. Method of review exclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-711.

Chapter 8.—ISSUANCE OF SECURITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

Chapter 9.—PENAL PROVISIONS**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-906. Penalty for failure or refusal to perform duty enjoined or to obey order of Commission.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 43-907, 43-908.

§ 43-907. Prosecution and penalty for violation of rules.

Prosecution for violation of any rule, order, or regulation made, adopted, or approved by the Public Service Commission under authority of chapters 1-10 of this title, or section 40-603, or sections 47-2301 to 47-2328, 47-2331 to 47-2350, or by the Joint Board under authority of section 40-603 or sections 47-2301 to 47-2328, 47-2331 to 47-2350, shall be on information in the District of Columbia Court of General Sessions, in the name of the District of Columbia, by the corporation counsel or any of his assistants. Any person, corporation, or public utility violating any such rule, order, or regulation shall, upon conviction, be fined not more than \$200: *Provided*, That the provisions of sections 43-907, 43-908 shall not be construed to apply to rules, orders, or regulations adopted or promulgated by the Commissioners of the District of Columbia which are not specifically required to be referred to the Joint Board or subject to the approval of such board: *Provided further*, That with respect to orders, rules, or regulations made or adopted by the Public Service Commission under authority of chapters 1-10 of this title, this section shall be construed to apply only to such orders, rules, or regulations as are subject to the penalties specifically provided in section 43-906. (Apr. 5, 1939, 53 Stat. 569, ch. 40, § 1; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21.)

ABOLITION OF JOINT BOARD

The Joint Board referred to in this section was abolished by section 503(c) of the Reorganization Plan No. 3 of 1967, effective November 3, 1967. The Plan is set out in the appendix to title 1.

CODIFICATION

This section is set out in this supplement to correct a typographical error in the section as it appears therein in the 1967 edition of the code.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-908.

§ 43-908. Construction of sections 43-906 and 43-907.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 43-907.

Chapter 10.—GENERAL PROVISIONS**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 29-240, 43-101 to 43-123, 43-202, 43-204, 43-206, 43-207, 43-209, 43-303, 43-309 to 43-311, 43-317, 43-319, 43-322, 43-329, 43-401, 43-405 to 43-407, 43-411, 43-418, 43-501, 43-704, 43-712, 43-801, 43-803, 43-807, 43-808, 43-901, 43-904 to 43-907, 43-910, 43-911, 43-913, 43-1002, 43-1003, 43-1005 to 43-1007.

§ 43-1003. Chapters to be liberally construed—Separability of provisions.**NOTES TO DECISIONS****Service, defined**

Advertising published in the classified telephone directory did not constitute a "service" and the Public Service Commission did not have statutory jurisdiction to regulate the rates charged for advertising in the classified directory. *The Classified Directory Subscribers Association et al. v. Public Service Commission of the District of Columbia* (1966, 274 F. Supp. 261; aff'd 383 F. 2d 510).

Chapter 11.—ELECTRIC LIGHT AND POWER COMPANIES—SPECIAL ACTS**§ 43-1101. Extension of overhead wires in Georgetown—Extension of underground conduits in Mount Pleasant.****TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(317) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 317, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1102.

§ 43-1102. Conduits and overhead wires for electric lighting prohibited in streets—House connections authorized.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1105. Electric-lighting wires east of Rock Creek.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(318) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1106. Permits for repair, extension, and enlargement of conduits.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(319) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this

section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1107. Extension of conduits—Ducts for use of fire and police wires—Maximum price of current—Additional charge for nonpayment of bills.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(320) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1108. Use of conduits of Washington Railway and Electric Company by Potomac Electric Power Company.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 12.—GAS COMPANIES—SPECIAL ACTS

§ 43-1202. Additional laboratories for testing gas of Washington Gas Light and Georgetown Gas Light Companies—Payment of expenses incident thereto.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 13.—PRIVATE CONDUITS

§ 43-1301. Conditions under which private conduits may be laid.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1303.

§ 43-1302. Refusal to remove conduits—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the

Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1303.

Chapter 14.—TELEGRAPH AND TELEPHONE COMPANIES

§ 43-1401. Additional telegraph and telephone wires prohibited on streets—Extensions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1102.

§ 43-1402. Removal of telephone poles and wires—Area of removal—Duties of Commissioners—Extension of conduits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1403 to 43-1408.

§ 43-1403. Plans of conduits to be submitted to Commissioners—Permits—Removal of poles—Wires for house connections—Telephone companies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1404 to 43-1406, 43-1408.

§ 43-1404. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1403, 43-1405, 43-1406, 43-1408.

§ 43-1405. Erection and maintenance of telephone poles in alleys—Poles outside designated limit—Temporary permits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1403, 43-1406, 43-1408.

§ 43-1406. Regulations for inspection—Ducts for use of fire and police wires.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(321) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1403, 43-1405, 43-1408.

§ 43-1407. Repairs and renewals.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1403, 43-1405, 43-1406, 43-1408.

§ 43-1408. Right to alter, amend, or repeal reserved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1402, 43-1403, 43-1405, 43-1406.

§ 43-1409. Removal of telegraph poles and wires—Duties of Commissioners—Extension of conduits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1410 to 43-1412, 43-1414 to 43-1417.

§ 43-1410. Plans of conduits to be submitted to Commissioners—Permits—Removal of poles—Wires for house connections—Telegraph companies.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1412, 43-1414, 43-1416, 43-1417.

§ 43-1411. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1414, 43-1416, 43-1417.

§ 43-1412. Erection and maintenance of telegraph poles in alleys—Poles outside designated limits—Temporary permits.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1414, 43-1416, 43-1417.

§ 43-1413. Conduits in public parks or reservations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1414, 43-1416, 43-1417.

§ 43-1414. Regulations for inspection—Ducts for use of fire and police wires.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(322) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1416, 43-1417.

§ 43-1415. Repairs and renewals.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1414, 43-1416, 43-1417.

§ 43-1416. Right to alter, amend, or repeal reserved—Rights under 43 U.S.C. § 1 et seq. preserved.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1414, 43-1417.

§ 43-1417. Rights to build and lay conduits not to be paid for in event of condemnation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1409, 43-1410, 43-1412, 43-1414, 43-1416.

Chapter 15.—WATER SUPPLY, ASSESSMENTS, AND RATES

§ 43-1501. Water mains, pipes, and fire plugs—Commissioners to have power to erect.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1503. Water supply—Rules and regulations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(323) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making regulations for the proper distributions of water, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1504. Fiscal year of water department.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(324) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to determining the frequency of levying and collecting water rates, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1506. Water registrar.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1510. Water mains and service sewers erected at discretion of Commissioners—Costs assessed against abutting property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515 to 43-1517, 43-1602.

§ 43-1511. Assessments for water mains.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515 to 43-1517, 43-1602.

§ 43-1512. Assessor to give notice of assessments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515 to 43-1517, 43-1602.

§ 43-1513. Water main and service sewer assessments payable in three installments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1515 to 43-1517, 43-1602.

§ 43-1514. Assessment of property in county of Washington for water mains and service sewers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515 to 43-1517, 43-1602.

§ 43-1515. Relevying assessments when assessments declared void.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1516, 43-1517, 43-1602.

§ 43-1516. Disposal of funds received by collector of taxes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515, 43-1517, 43-1602.

§ 43-1517. Definition—Service sewer.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1513, 43-1515, 43-1516, 43-1602.

§ 43-1519. Refund of water rents erroneously paid.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1520. Water rents—Rates.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1520c. Commissioners to have authority to fix water rates.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(325) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1521. Commissioners to have authority to collect water rates in advance.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1521a. Additional charge on unpaid water bills.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1521d, 43-1541, 43-1609.

§ 43-1521b. Discontinuance of water service for failure to pay water charges.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1521d, 43-1541, 43-1609.

§ 43-1521c. Lien for water charges.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1521d, 43-1541, 43-1609.

§ 43-1521d. Remedies not exclusive.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1609.

§ 43-1530. Commissioners authorized to deliver water in nearby Maryland—Contract.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1520c, 43-1529.

§ 43-1531. Delivery of water to Arlington County, Virginia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1529.

§ 43-1531a. Delivery of water to Falls Church, Virginia, and adjacent areas—Installation expenses—Payments for water—Revocation of permit.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1531c.

§ 43-1531c. Acquiring of lands for pipe lines authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1533. Potomac water to be furnished to charitable institutions without charge.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1534. Unlawful tapping of water pipe—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1535.

§ 43-1539. District of Columbia water system defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1540. Loans authorized to expand water system.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1539.

§ 43-1541. Water and water service supplied for the use of the Government of the United States.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 16.—SANITARY SEWAGE WORKS**§ 43-1602. D.C. Sanitary Sewage Works Fund.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1621.

§ 43-1603. Use of the D.C. Sanitary Sewage Works Fund.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1604. Advances for sanitary sewage works—Reimbursement for amounts advanced.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1605. Service charges for sanitary sewer service—Authority of Commissioners.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(326) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1606. Methods of determination of sanitary sewer service charges.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(326) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to establishing charges for the provision of sanitary sewer service, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1611.

§ 43-1607. Persons obligated to pay sanitary sewer service charge.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1608. Meters and measuring devices—Maintenance and repairs.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(327) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1609. Additional charge for overdue bills—Enforcement of lien.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(328) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to imposing additional charge for unpaid sanitary sewer service charge, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1610. Sanitary sewer service charges as to churches and institutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1611. Sanitary sewer service charges for sewer services furnished for direct use by the Government of the United States.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1612. Loans from the United States Treasury for sanitary and combined sewer systems of the District.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1613. Limit of loans for the sanitary and combined sewer systems.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1616.

§ 43-1614. Use of funds from D.C. Sanitary Sewage Works Fund for certain sewers—Allocation of cost.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1615. Advancement and availability of funds from loans.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1616. Repayment of loans.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 43-1617. Interest rates on loans.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 43-1623.

§ 43-1618. Commissioners' authority to make regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(329) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 43-1620. Commissioners authorized to develop plan for interceptor and sewer line.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1616, 43-1621 to 43-1624.

§ 43-1621. Potomac interceptor—Acquisition of rights-of-way—Plans and specifications—Operation and maintenance of regional sanitary sewer system—Charges for use of interceptor—Deposit of funds.

* * * * *

(b) The Commissioners are authorized to establish, by agreements with the appropriate agencies of the United States and with the proper authorities of the States and local jurisdictions concerned, charges for the use of the Potomac interceptor, which shall be based upon the costs of operation, maintenance, and amortization of the cost of all planning and construction (including acquisition of rights-of-way) of such interceptor, but which shall exclude such amount as may be appropriated pursuant to section 43-1622. In the event any agency or local authority shall make lump sum payment of its entire portion of the cost, or one or more lump sum payments of the whole or any part of the remainder thereof, of all planning and construction (including acquisition of rights-of-way) of the interceptor, the agreement between the Commissioners and such agency or local authority shall provide or shall be modified to provide, as the case may be, that the charges to such local authority or agency for the use of the Potomac interceptor shall take into consideration such payment by the local authority or agency of its portion of the cost of such planning and construction: *Provided*, That any lump sum payment by an agency or local authority towards its portion of the cost of all planning and construction (including acquisition of rights-of-way), if not of the whole amount thereof or of the remaining balance at the time of payment, shall be in an amount of not less than one-fourth of the agency's or local authority's original entire portion of the planning and construction cost. The Commissioners shall credit all receipts from such charges for the use of the Potomac interceptor to a special fund which is hereby established and which shall be known as the Metropolitan Area Sanitary Sewage Works Fund of the District of Columbia. Such special fund shall be available in such amounts as may be appropriated from time to time for expenses necessary to plan, construct, maintain, and operate the Potomac interceptor.

* * * * *

(As amended Sept. 11, 1967, Pub. L. 90-84, § 1, 81 Stat. 224.)

AMENDMENT

1967—Section 1, act Sept. 11, 1967, amended subsection (b) by adding thereto the second sentence above set out, beginning with "In the event", and ending with "construction cost".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Com-

missioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(330) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) in regard to prescribing regulations respecting the operation and maintenance of the Potomac Interceptor, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1616, 43-1622 to 43-1624.

§ 43-1622. Authorization of appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1616, 43-1621, 43-1623, 43-1624.

§ 43-1623. Advancement of funds—Crediting and repayment of loans.

(a) The Secretary of the Treasury is authorized and directed to advance to the Commissioners, from time to time, and the Commissioners are authorized to accept as loans, such additional funds, not exceeding a total of \$25,000,000, as may be appropriated to carry out the purposes of sections 43-1620 to 43-1624. Any loan advanced under this section shall be credited to the Metropolitan Area Sanitary Sewage Works Fund, and 50 per centum of the total amount of loans made under this section shall be repaid to the Secretary of the Treasury, from the receipts credited to said fund, in substantially equal annual payments including principal and interest, within a period of forty years beginning on July 1 of the second fiscal year following the date on which each such advance is credited to this fund: *Provided*, That interest and principal payments shall be deferred whenever the Secretary of the Treasury finds that the income received from charges for sewage services is inadequate to cover these and other expenses properly chargeable to these receipts, and such deferred interest and principal shall be added to the sums payable to the Secretary of the Treasury in later years. The interest rates on such loans shall be determined in accordance with the provisions of section 43-1617.

(b) The amount of loans which were made under subsection (a) of this section, and which do not have to be repaid—

(1) shall be considered as an additional Federal contribution toward the cost of planning, acquiring rights-of-way for, and constructing, the Potomac interceptor sewer, and

(2) for purposes of section 43-1621(b) shall be treated as having been appropriated pursuant to section 43-1622.

(June 12, 1960, Pub. L. 86-515, § 4, 74 Stat. 211; Sept. 11, 1967, Pub. L. 90-84, § 2, 81 Stat. 225.)

AMENDMENT

1967—Section 2, act Sept. 11, 1967, amended section by adding (a) at the beginning thereof; striking out in the second sentence of subsection (a) "and shall be repaid"

and inserting at that point, “and 50 per centum of the total amount of loans made under this section shall be repaid”, and adding subsection (b) thereto.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1616, 43-1622, 43-1624.

§ 43-1624. Acquisition of land in Maryland or Virginia for Potomac interceptor—Title to and jurisdiction over land—Condemnation proceedings.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 43-1616, 43-1622, 43-1623.

TITLE 44.—RAILROADS AND OTHER CARRIERS

Chapter 1.—RAILROADS

§ 44-101. Sale of unclaimed freight.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-101, 29-209, 29-211, 29-215, 29-223, 29-229, 29-233, 29-234, 29-236, 29-238 to 29-240, 44-102, 44-103.

§ 44-102. Disposition of property under court order.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-101, 29-209, 29-211, 29-215, 29-223, 29-229, 29-233, 29-234, 29-236, 29-238 to 29-240, 44-103.

§ 44-103. Disposition of proceeds of sale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-101, 29-209, 29-211, 29-215, 29-223, 29-229, 29-233, 29-234, 29-236, 29-238 to 29-240.

§ 44-104. Philadelphia, Baltimore and Washington Railroad Company—Abandonment of substation authorized—Repeal of certain laws.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-107.

§ 44-105. Waiting room on platform authorized.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 44-104, 44-107.

§ 44-106. Reversion of property to District of Columbia—Adequate walkways provided.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-107.

Chapter 2.—STREET RAILWAYS AND BUS LINES

§ 44-202. Street railways to furnish sufficient cars—Power, equipment, appliances, and service—Rules and regulations—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-203.

§ 44-204. Fenders required on streetcars.

TRANSFER OF FUNCTIONS TO COMMISSIONERS

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 44-206, 44-207.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 44-203.

§ 44-211. Removal of disused tracks.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-210.

§ 44-212. Free transfers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-210.

§ 44-214a. Fares for schoolchildren not over 18 years of age—Formula for adjusting and payment of fare subsidy.

* * * * *

In the case of any common carrier required to furnish transportation to schoolchildren at a reduced fare under this section, the Washington Metropolitan Area Transit Commission shall certify to the Commissioner of the District of Columbia, with respect to each calendar month commencing with September 1968, and ending August 1971, all inclusive, an amount which is the difference between the total of all reduced fares paid during such calendar month to such carrier by schoolchildren in accordance with this section and the amount which would have been paid during that month to such carrier if such fares had been paid at the lowest adult fare established by the Commission for regular route transportation in that month. The certification required by this section shall be made for each such month as soon as practicable following the end thereof. The Commissioner of the District of Columbia, upon receiving any such certification, shall pay the carrier with respect to which that certification was filed an amount equal to the amount contained therein. (As amended Oct. 18, 1968, Pub. L. 90-605, § 1, 82 Stat. 1187.)

AMENDMENT

1968—Act, Oct. 18, 1968, Pub. L. 90-605, amended the second paragraph generally to read as above set out. The paragraph prior to this amendment contained different conditions for application of the fare subsidy. For provisions of this paragraph prior to this amendment see the main edition of the code.

Chapter 3.—PASSENGER MOTOR VEHICLES FOR HIRE

§ 44-301. Passenger motor vehicles for hire to carry insurance — Exceptions — Liability of insurance company absolute.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(331) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to approving form of, and terms and conditions of filing evidence, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2331.

NOTES TO DECISIONS

Automobile rental corporation

The District of Columbia Taxicab Insurance Act which applies to persons who rent passenger motor vehicles "for hire" had no application to corporation which rented automobiles, did not sell a transportation service as such and which prohibited its lessees from using the vehicles rented to them for transportation of persons or property "for hire"; "for hire" is usually a phrase of art and, in the field of transportation, denotes a common or contract carrier. *Nationwide Mutual Insurance Company etc. v. New Amsterdam Casualty Company etc.* (1967, 376 F. 2d 607, 4th Circuit).

The administrative interpretation of District of Columbia Taxicab Insurance Act that automobile rental corporations are not within the Act is entitled to weight. *Id.*

§ 44-302. Insurance companies must be authorized to do business in District—Bonds to be secured—Insurance companies and corporate sureties must be approved by Superintendent—Reserves—Superintendent may make rules and regulations—Superintendent may withdraw certificate of approval after hearing—Conditions for cancellation of insurance policies and bonds.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(332) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations governing the writing of insurance, the making of bonds, and the business of insuring or bonding risks, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 4.—EMPLOYERS' LIABILITY

§§ 44-401 to 44-403.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 44-404, 44-405.

§ 44-404. Suit to be brought within one year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-405.

§ 44-405. Certain prior laws not affected.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 44-404.

TITLE 45.—REAL PROPERTY

Chapter 1.—CONVEYABLE ESTATES AND METHODS OF CONVEYANCE

§§ 45-102 to 45-104.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-823.

§ 45-106. Creation of term in excess of one year to be by deed or will.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-501.

Chapter 2.—INTERPRETATION OF INSTRUMENTS

§§ 45-203, 45-204.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-823.

Chapter 3.—FORMS—COVENANTS AND WARRANTIES

§ 45-302. Deeds of corporations—Formal requisites—Acknowledgment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-501.

Chapter 4.—ACKNOWLEDGMENTS

§§ 45-401, 45-402.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-501.

§ 45-403. Acknowledgment out of District.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-404, 45-501.

§ 45-404. Acknowledgment in foreign country.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-501.

§ 45-408. Certain defective acknowledgments and executions validated.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-409, 45-504.

§ 45-409. Acknowledgments by married women.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-410, 45-504.

Chapter 6.—MORTGAGES AND DEEDS OF TRUST

Sec.

45-615. Terms of sale and notice to be given.

§§ 45-605, 45-606.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-607.

§ 45-611. Appointment of trustee to sell in event of death of mortgagee or trustee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-613, 45-614.

§ 45-614. Appointment of new trustee to sell in event of refusal or inability to act or removal of trustee from District, or for other good cause—Appointment of new trustee by agreement of parties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-603, 45-611, 45-619.

§ 45-615. Terms of sale and notice to be given.

(a) If the length of notice and terms of sale are not prescribed by the mortgage or deed of trust, or be not left therein to the judgment or discretion of the mortgagee or trustee, any person interested in such sale may apply to the court, before such sale is advertised, to fix the terms of sale and determine what notice of sale shall be given.

(b) No foreclosure sale under a power of sale provision contained in any deed of trust, mortgage or other security instrument, may take place unless the holder of the note secured by such deed of trust, mortgage, or security instrument, or its agent, gives written notice, by certified mail return receipt requested, of said sale to the owner of the real property encumbered by said deed of trust, mortgage or security instrument at his last known address, with a copy of said notice being sent to the Commissioner of the District of Columbia, or his designated agent, at least 30 days in advance of the date of said sale. Said notice shall be in such format and contain such information as the District of Columbia Council shall by regulation prescribe. The 30-day period shall commence to run on the date of receipt of such notice by the Commissioner. The Commissioner or his agent shall give written acknowledgment to the holder of said note, or its agent, on the day that he receives such notice, that such notice has been received, indicating therein the date of receipt of such notice. The notice required by this subsection (b) in regard to said mortgages and deeds of trust shall be in addition to the notice described by subsection (a) of this section. (Mar. 3, 1901, 31 Stat. 1274, ch. 854, § 539; June 30, 1902, 32 Stat. 532, ch. 1329; Oct. 12, 1968, Pub. L. 90-566, § 1, 82 Stat. 1002.)

AMENDMENTS

1968—Act, Oct. 12, 1968, Pub. L. 90-566, amended the title of the section to read, "terms of sale and notice to be given"; inserted (a) at the beginning of the original section and added subsection (b) thereto.

§ 45-619. Release after death of mortgagee or trustee.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-614.

Chapter 7.—RECORDER OF DEEDS

SUBCHAPTER I.—APPOINTMENT AND FUNCTIONS OF RECORDER

§ 45-701. Appointment and duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS OF THE BOARD OF COMMISSIONERS

Section 501 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, provides:

"Status of certain agencies. (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by part IV of this reorganization plan.

"(b) The following agencies of the Corporation are the agencies referred to in subsection (a) of this section:

"(1) Board of Education (including the public school system)

"(2) Board of Library Trustees (including the public libraries)

"(3) Recreation Board

"(4) Public Service Commission

"(5) Zoning Commission

"(6) Zoning Advisory Council

"(7) Board of Zoning Adjustment

"(8) Office of the Recorder of Deeds

"(9) Armory Board"

§ 45-702. Deputy recorder—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-703. Second deputy—His duties and powers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-708. Fees of recorder of deeds.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-806, 45-714.

§ 45-714. Authority of Commissioners to increase or decrease fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Com-

missioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SUBCHAPTER II.—RECORDATION TAX ON DEEDS

§ 45-721. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-722. Exemptions—Enumeration of deeds exempt from tax.

NOTES TO DECISIONS

Parent and trustees

District of Columbia deed recordation tax exemption which is provided for deeds between parent and child made without consideration also applies to a conveyance of real property made by parents to trustees under a trust they established for benefit of their children. *District of Columbia v. J. Orleans, Trustee, et al.* (1968, 406 F. 2d 957, 132 U.S. App. D.C. 139).

The fact that children might die prior to termination of trust involving a deed for benefit of the children and property would go to heirs of the child rather than donors' children would not prevent exemption from District of Columbia deed recordation tax in the absence of regulation or administrative policy formulating approach to definition and valuation that would be involved in taxation of contingent interests. *Id.*

§ 45-723. Imposition of tax—Rate—Returns—Liability for tax.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(333) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (d)(1) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 45-724. Absence of consideration—Basis for computation of tax.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-721.

§ 45-725. Investigation by Commissioners to determine correctness of returns—Production of books and records—Examination of witnesses—Service of summons — Compelling attendance — Punishment for disobedience.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-726. Recordation—Conditions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-728. Deficiencies in tax—Notice of determination—Protests—Hearings—Time for payment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-734.

§ 45-729. Penalties and interest—Waiver—Interest on deficiency assessments—Extension of time for payment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-730. Compromise and settlement—Written agreements for settlement of tax liability—Penalties for illegal acts in connection with compromise agreements—Prosecutions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-731. Compromise of penalties and adjustment of interest.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-732. Limitations—Time for making assessments—Extension of time by agreement—Suspension of running of period of limitations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-733. Administration of oaths.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-736. Stamps and other devices for collection of tax.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(334) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 45-737. Promulgation of rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(335) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 45-738. Abatement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 45-739. Elimination of fractional stamps or devices.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

CHAPTER 8.—ESTATES IN LAND

§ 45-805. Estates pur autre vie.

NOTES TO DECISIONS

Prior death of beneficiary

Under statute providing that estate for life of third person shall be deemed freehold only during life of grantee or devisee, but after his death shall be deemed chattel real and be part of his personal estate, where testator's nephew was given one-third of income from trust during life of testator's brother and brother was given two-thirds of income during his life, and will provided for termination of trust upon death of brother with distribution to nephew or his children, nephew's death before death of brother did not entitle brother to receive nephew's interest. *H. J. Bobys et ano. v. A. Bobys et al.* (1968, 284 F. Supp. 321).

Under statute providing that estate for life of third person shall be deemed freehold only during life of devisee but after his death shall be deemed chattel real and be part of his personal estate, where testator's nephew was given one-third of income from trust during life of testator's brother and will provided that, in event of nephew's predeceasing brother, corpus, after deduction of specific legacy, was to be paid to nephew's children, fact that nephew predeceased brother did not entitle nephew's children to acceleration of provision made as to them. *Id.*

Under statute providing that estate for life of third person shall be deemed freehold only during life of grantee or devisee but after his death shall be deemed chattel real and be part of his personal estate, interest of testator's nephew in one-third of income of trust during life of testator's brother was not extinguished at time of death of nephew who predeceased testator's brother, and such income would be paid to personal representatives of nephew's estate during life of testator's brother. *Id.*

§ 45-816. Tenancies in common and joint tenancies.

NOTES TO DECISIONS

Evidence—Sufficiency

Evidence, in a suit by the administratrix of the decedent to recover an automobile which was registered in the joint names of decedent and decedent's landlady and which had been purchased by the decedent from a bank account which was in the joint names of decedent and decedent's landlady, that decedent gave his interest in automobile to landlady prior to decedent's death was sufficient for jury. *E. L. Prather v. J. B. Hill* (D.C. App. 1969, 250 A. 2d 690).

§ 45-822. Estates at will—When terminated.

NOTES TO DECISIONS

Status of person in possession of foreclosed property

Where real property is sold under foreclosure of a deed of trust, grantor of deed of trust, or anyone in possession claiming under him, becomes tenant at will of purchaser at foreclosure and is entitled to 30 days' notice to quit. *T. G. Thompson v. S. Mazo* (D.C. App. 1968, 245 A. 2d 122).

Chapter 9.—LANDLORD AND TENANT

§ 45-902. Notices to quit—Month to month.

NOTES TO DECISIONS

Grounds for eviction

It was the intent of Congress, which directed enactment of District of Columbia housing code, that, while landlord might evict for any legal reason or for no reason at all, he was not free to evict tenant in retaliation for tenant's report of housing code violations to the authorities. *Y. C. Edwards v. N. Habib* (1968, 397 F. 2d 687, 130 U.S. App. D.C. 126).

Landlord's motivation for termination of tenancy

Tenant's constitutional rights to freedom of speech and to petition for redress of grievances were not violated by landlord's eviction of tenant through court action, notwithstanding fact that landlord may have been motivated to evict in retaliation for tenant's justified complaints to housing authority about condition of premises. *Y. C. Edwards v. N. Habib* (D.C. App. 1967, 227 A. 2d 388, rev'd and remanded 397 F. 2d 687).

Thirty days' notice to quit given by landlord to month-to-month tenant was sufficient to terminate tenancy under statute, notwithstanding fact that landlord may have been motivated to give notice in retaliation for tenant's justified complaints to housing authority about condition of premises. *Id.*

Violations of regulations

In this case the jury found that substantial violations of the housing regulations existed on premises at time lease was signed, and that such violations were sufficient to render premises unsafe and unsanitary, and landlord knew or should have known of such violations, and the court held lease was void and unenforceable, though landlord had not received official notice of existence of violations from city housing inspectors. *Diamond Housing Corp. v. L. Robinson* (D.C. App. 1969, 257 A. 2d 492).

§ 45-903. Tenancy at will—Notice for termination.

NOTES TO DECISIONS

Status of person in possession of foreclosed property

Where real property is sold under foreclosure of a deed of trust, grantor of deed of trust, or anyone in possession claiming under him, becomes tenant at will of purchaser at foreclosure and is entitled to 30 days' notice to quit. *T. G. Thompson v. S. Mazo* (D.C. App. 1968, 245 A. 2d 122).

§ 45-904. Tenancy by sufferance—When terminated.

NOTES TO DECISIONS

Notice generally

In a case where a tenant at sufferance vacated premises on August 27 without giving landlord 30-day notice of his intention to quit, tenant was liable for rent only for 30 days subsequent to vacating. *A. Willis v. Retail Adjustment Bureau, Inc., etc.* (D.C. App. 1969, 248 A. 2d 823).

A tenant at sufferance who vacated without the giving required 30-day notice is liable for rent for 30 days during which notice would have run. *Id.*

Sufficiency of record on appeal

In a case where the landlord's assignee did not file a brief in the tenant's appeal from judgment for unpaid rent, there was no statement of proceedings and evidence in the record and trial court did not certify that the tenant's recital of the facts was correct, reviewing court would remand case for trial on tenant's claim that landlord's assignee was estopped to assert a right to rent because of oral waiver by landlord-assignor of 30-day notice of intention to quit. *A. Willis v. Retail Adjustment Bureau, Inc., etc.* (D.C. App. 1969, 248 A. 2d 823).

§ 45-908. Agreement as to notice.

NOTES TO DECISIONS

Violations of regulations

In this case the jury found that substantial violations of the housing regulations existed on premises at time lease was signed, and that such violations were sufficient to render premises unsafe and unsanitary, and landlord

knew or should have known of such violations, and the court held lease was void and unenforceable, though landlord had not received official notice of existence of violations from city housing inspectors. *Diamond Housing Corp. v. L. Robinson* (D.C. App. 1969, 257 A. 2d 492).

§ 45-910. Ejectment or summary proceedings.

NOTES TO DECISIONS

Grounds for eviction

It was the intent of Congress, which directed enactment of the District of Columbia housing code, that, while landlord might evict for any legal reason or for no reason at all, he was not free to evict tenant in retaliation for tenant's report of housing code violations to the authorities. *Y. C. Edwards v. N. Habib* (1968, 397 F. 2d 687, 130 U.S. App. D.C. 126).

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann, et al., etc. v. R. B. Boozer, et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

§ 45-911. Arrears of rent and double rent.

NOTES TO DECISIONS

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann, et al., etc. v. R. B. Boozer, et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

§ 45-915. Landlord's lien for rent.

NOTES TO DECISIONS

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann, et al., etc. v. R. B. Boozer, et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

§ 45-916. Lien—How enforced.

NOTES TO DECISIONS

Preliminary injunction

In this case where numerous other remedies were available to landlord, grant of preliminary injunction was improper prohibiting tenants, who claimed that buildings were in violation of housing code, from paying rent to third party and which directed rentals deposited to be paid into court for delivery to landlord even though landlord was in financial difficulty, was in default on trust payments, and was without other available funds. *R. Dorfmann, et al., etc. v. R. B. Boozer, et al.* (1969, 414 F. 2d 1168, — U.S. App. D.C. —).

Chapter 10.—POWERS

§§ 45-1005 to 45-1007.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-1008.

Chapter 14.—REAL ESTATE AND BUSINESS BROKERS' LICENSES

§ 45-1401. Acting as broker or salesman without license unlawful.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-1409.

NOTES TO DECISIONS

Permitting others to use broker's license

It was proper to revoke a real estate broker's license who agreed to lend use of her license to a company for \$50 per month plus \$25 for each real estate transaction consummated, and who seldom visited company office and exercised no supervision over salesmen, one of whom testified that broker knew the salesmen were using her broker's license in arranging and negotiating mortgage loans. *C. T. Cardoza v. Real Estate Commission etc.* (D.C. App. 1969, 248 A. 2d 815).

A real estate broker's ignorance, who had agreed to lend use of license to company, as to the unlawful conduct of a salesman was no excuse since she in effect blindfolded herself and failed to inquire about significant happenings in the office. *Id.*

Property outside the District

A person employed as a real estate salesman of the officer-broker of mortgage company which was a District of Columbia corporation and who contracted in the District of Columbia with a salesman for the same company to negotiate a loan on Virginia real estate owned by a District of Columbia resident and who paid such person a commission was acting as a District of Columbia broker without a license in violation of statute. *J. W. Reiss v. Real Estate Commission etc.* (D.C. App. 1969, 248 A. 2d 814).

§ 45-1402. Definitions—Exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-1409.

NOTES TO DECISIONS

Property outside the District

A person employed as a real estate salesman of the officer-broker of mortgage company which was a District of Columbia corporation, and who contracted in the District of Columbia with a salesman for the same company to negotiate a loan on Virginia real estate owned by a District of Columbia resident and who paid such person a commission was acting as a District of Columbia broker without a license in violation of statute. *J. W. Reiss v. Real Estate Commission etc.* (D.C. App. 1969, 248 A. 2d 814).

§ 45-1403. Real Estate Commission created—Membership—Seal—Records—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(336) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 336, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 45-1409.

§ 45-1404. Qualifications for license.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 45-1409.

NOTES TO DECISIONS

Trustworthiness and competency

Evidence in hearing on application for real estate broker's license was sufficient to raise doubt as to trustworthiness and competency of petitioner to transact business of broker and to justify denial of application. *C. O. Holloman v. Real Estate Commission etc.* (D.C. App. 1968, 241 A. 2d 595).

§ 45-1405. Application for license—Requirements—Location of business—Members—Individual broker's and real-estate salesman's license—Bond—Form, conditions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(337) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to requiring proof of the honesty, truthfulness, and integrity of the applicant, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 45-1408 to 45-1410.

NOTES TO DECISIONS

Failure to file new bond

Evidence supported finding that real estate broker, after cancellation of bond, failed to file new bond within time period specified by real estate commission; accordingly, since broker had been notified that unless new bond was filed within period license would terminate, termination was not illegal. *Carl O. Holloman v. Real Estate Commission etc.* (D.C. App. 1968, 241 A. 2d 595).

§§ 45-1406, 45-1407.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-742, 45-1409.

§ 45-1408. Suspension or revocation of license—Causes enumerated.

NOTES TO DECISIONS

Issues not raised in lower court

Where defendant in real estate broker's action to recover commission did not raise issue in trial court of le-

gality of oral listing of property with broker for sale, the Court of Appeals would not consider the issue. *H. P. Miller v. J. Avirom* (1967, 384 F. 2d 319, 127 U.S. App. D.C. 367).

Defendant's secondary reliance on statute of frauds in real estate broker's action to recover commission did not encompass issue of legality of oral listing with broker of property for sale and Court of Appeals could not consider the issue on appeal. *Id.*

Permitting others to use broker's license

It was proper to revoke a real estate broker's license who agreed to lend use of her license to a company for \$50 per month plus \$25 for each real estate transaction consummated, and who seldom visited company office and exercised no supervision over salesmen, one of whom testified that broker knew the salesmen were using her broker's license in arranging and negotiating mortgage loans. *C. T. Cardoza v. Real Estate Commission etc.* (D.C. App. 1969, 248 A. 2d 815).

A real estate broker's ignorance, who had agreed to lend use of license to company, as to the unlawful conduct of a salesman was no excuse since she in effect blindfolded herself and failed to inquire about significant happenings in the office. *Id.*

§ 45-1409. Hearing before suspension—Court review—Appeal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 45-1406, 45-1409.

§§ 45-1410 to 45-1418.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 11-742, 45-1409.

Chapter 16.—RENT CONTROL**§ 45-1603. General and special adjustments.**

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-1602.

§ 45-1604. Petition for adjustment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-1602, 45-1608, 45-1609.

§§ 45-1608, 45-1609.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-1604.

§ 45-1610. Enforcement—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 45-1605.

TITLE 46.—SOCIAL SECURITY

Chapter 3.—UNEMPLOYMENT COMPENSATION

§ 46–301. Definitions.

* * * * *

(b) (5) * * *

(T) service performed after April 1, 1962, in the employ of a public international organization designated by the President as entitled to enjoy the privileges, exemptions, and immunities provided under the International Organizations Immunities Act (22 U.S.C. 288—288f–1).

* * * * *

(As amended Oct. 1, 1969, Pub. L. 91–80; § 1, 83 Stat. 130.)

AMENDMENTS

1969—Pub. L. 91–80, amended subsection (b) (5) by striking out the period at the end of clauses (P) and (R), inserting a semicolon at the end of each clause and adding clause (T) thereto, to follow clause (S).

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(338 to 341) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (c), (k), (n) and (o) in the particulars described in pars. 338 to 341, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–303, 46–306 to 46–308.

NOTES TO DECISIONS

Construction

The purpose of Congress in enacting 1962 amendment to District of Columbia Unemployment Compensation Act, was to deny exemption from the act to scientific, literary or educational entities but to continue exemption to those which had been organized and operated exclusively for religious or charitable purposes. *Greater Southeast Community Hospital Foundation Inc., etc. v. District Unemployment Compensation Board* (1969, 407 F. 2d 712, 132 U.S. App. D.C. 249).

Evaluation of exemption application

In a case where the hospital's application for exemption from the District of Columbia Unemployment Compensation Act had not been evaluated under criteria ascertainable on the record before the Court of Appeals, the Court of Appeals remanded case to district court to the end that it be returned to the compensation board for a re-evaluation of its determination in light of court's opinion. *Greater Southeast Community Hospital Foundation Inc., etc. v. District Unemployment Compensation Board* (1969, 407 F. 2d 712, 132 U.S. App. D.C. 249).

§ 46–302. District Unemployment Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–301, 46–314.

§ 46–303. Employer contributions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–304, 46–317.

NOTES TO DECISIONS

Notice to base period employers

Under section of Unemployment Compensation Act that claimant and other parties to proceedings shall be promptly notified of initial determination with respect to whether or not benefits may be payable, notice to all "base period employers" is required. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

Under section of Unemployment Compensation Act providing that if disqualification of claimant of benefits has been alleged or may exist benefits shall not be paid prior to expiration of period for appeal, there must be some opportunity to challenge claimant's eligibility before payments are made. *Id.*

§ 46–304. Method of paying employer contributions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(342 to 344) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (b), (e) and (k) in the particulars described in pars. 342 to 344, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–301, 46–306, 46–308, 46–316.

§ 46–306. Deposit in unemployment trust fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46–316.

§ 46–307. Amount and duration of benefits.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(345) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (c) with respect to prescribing regulations regarding reduction of benefits, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–301, 46–309, 46–316.

§ 46–308. Method of paying benefits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46–314, 46–316.

§ 46-309. Eligibility for benefits.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(346 and 347) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (d) in the particulars described in pars. 346 and 347, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46-307, 46-310.

NOTES TO DECISIONS

Available for work

In order to be eligible for unemployment benefits claimant must be "available for work" which means that claimant must be genuinely attached to labor market and making adequate contacts for work. *Woodward & Lothrop, Inc. v. District of Columbia Unemployment Compensation Board et ano.* (1968, 392 F. 2d 479, 129 U.S. App. D.C. 155).

Eligibility for benefits

Where unemployment compensation claimant had been classified as (1) a secretary and (2) a bookkeeper, and had base period earnings in excess of \$6,000, his rejection of last employer's offer of job as salesman at \$1.50 per hour was irrelevant to issue of his initial eligibility for benefits. *Woodward & Lothrop, Inc. v. District of Columbia Unemployment Compensation Board et ano.* (1968, 392 F. 2d 479, 129 U.S. App. D.C. 155).

Evidence of availability

Where only evidence to establish claimant's availability for work was ex parte statements attributed to him, finding by appeals examiner that claimant was entitled to benefits was unsupported by evidence. *Woodward & Lothrop, Inc. v. District of Columbia Unemployment Compensation Board et ano.* (1968, 392 F. 2d 479, 129 U.S. App. D.C. 155).

Ordinarily an applicant's ex parte certificate may permit initial determination of eligibility for compensation benefits, but if appeal is taken and claim is put in issue, claimant may receive benefits only if there is evidence to support finding by Board that applicant is available for work. *Id.*

In order to support finding that claimant is available for work, claimant must adduce evidence that he has conducted an active search for work. *Id.*

Policy of Compensation Act

Basic policy underlying Unemployment Compensation Act is preference for compensation through employment rather than welfare compensation. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

Rules of evidence

Unemployment compensation board is not bound by strict rules of evidence and making of certain presumptions which underlie finding of eligibility may be necessary in order to have prompt determination of claims, but eligibility itself may not be presumed. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

§ 46-310. Disqualification for benefits.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(348 to 350) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (c) and (e) with respect to prescribing regulations, as specified in pars. 348 to 350, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46-307, 46-309, 46-311.

NOTES TO DECISIONS

Policy of Compensation Act

Basic policy underlying Unemployment Compensation Act is preference for compensation through employment rather than welfare compensation. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

§ 46-311. Determination of claims.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(351 to 354) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (c), (e) and (g) with respect to prescribing regulations and fixing rate of fees, as specified in pars. 351 to 354, to the District of Columbia Council, subject to the right of the Commissioner is provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46-301, 46-303.

NOTES TO DECISIONS

Evidence of availability

Where only evidence to establish claimant's availability for work was ex parte statements attributed to him, finding by appeals examiner that claimant was entitled to benefits was unsupported by evidence. *Woodward & Lothrop, Inc. v. District of Columbia Unemployment Compensation Board et ano.* (1968, 392 F. 2d 479, 129 U.S. App. D.C. 155).

Ordinarily an applicant's ex parte certificate may permit initial determination of eligibility for compensation benefits, but if appeal is taken and claim is put in issue, claimant may receive benefits only if there is evidence to support finding by Board that applicant is available for work. *Id.*

In order to support finding that claimant is available for work, claimant must adduce evidence that he has conducted an active search for work. *Id.*

Last known address

Phrase "last known address" within meaning of District of Columbia Unemployment Compensation Act that appeal from decision of claims deputy may be taken by claimant within 10 days after notification thereof, or after date such notification was mailed to his "last known address" is not invariably the most recent mailing address of claimant. *E. MacKenzie v. D.C. Unemployment Compensation Board* (1968, 393 F. 2d 659, 129 U.S. App. D.C. 258).

Where District of Columbia Unemployment Compensation Board found claimant eligible for unemployment benefits, and thereafter claims deputy ruled that claimant was not available for work and mailed notice of such determination to temporary address of claimant in St. Paul, Minnesota, instead of to permanent address of claimant in Washington, D.C., and it was known that temporary address had been abandoned, notice was not sufficient to start period for taking an appeal by claimant because not "last known address" within meaning of statute. *Id.*

Notice to base period employers

Under section of Unemployment Compensation Act that claimant and other parties to proceedings shall be promptly notified of initial determination with respect to whether or not benefits may be payable, notice to all "base period employers" is required. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

Under section of Unemployment Compensation Act providing that if disqualification of claimant of benefits has been alleged or may exist benefits shall not be paid prior to expiration of period for appeal, there must be some opportunity to challenge claimant's eligibility before payments are made. *Id.*

Rules of evidence

Unemployment compensation board is not bound by strict rules of evidence, and making of certain presumptions which underlie finding of eligibility may be necessary in order to have prompt determination of claims, but eligibility itself may not be presumed. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

Time to appeal

Where district unemployment compensation board on March 6 sent employer notice stating that former employee had filed claim for unemployment compensation and that eligibility to receive benefits would be decided later, and on March 14 board notified employer that claimant had been paid his first weekly benefit, 10-day period for filing of appeal did not begin to run until March 14, and employer's appeal filed March 23 was timely. *District Unemployment Compensation Board v. W. Hahn & Co., Inc.* (1968, 399 F. 2d 987, 130 U.S. App. D.C. 254).

§ 46-312. Court review.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 46-303, 46-311.

§ 46-313. Administration.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(355 to 357) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a), (b) and (f) in the particulars described in pars. 355 to 357, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46-314, 46-315, 46-317.

§ 46-314. Method of paying administrative expenses.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 46-315. District Unemployment Compensation Board.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 46-301, 46-304.

§ 46-316. Reciprocal arrangements.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(358) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) with respect to entering into reciprocal arrangements, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 46-301.

§ 46-317. Records and reports**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(359) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) with respect to prescribing work records to be kept, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 46-326. Commissioners of the District of Columbia.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TITLE 47.—TAXATION AND FISCAL AFFAIRS

Chapter 1.—GENERAL PROVISIONS

Sec.

47-145. Use of appropriated funds to promote demonstrations to influence legislation or other governmental action—Exception.

§ 47-106. Apportionment of appropriations for contingent and miscellaneous expenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-107. Appropriations for contingent expenses—Accounting.

REFERENCES IN TEXT

Section 104 of former title 5 of the U.S. Code referred to in text, has been transferred to title 31 U.S.C. § 490-2.

§ 47-112. Disbursing officer — Appointment — Bond — Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-112a. Examination of vouchers and disbursement thereon—Accountability.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-112b, 47-120b.

§ 47-112b. Exceptions to liability for overpayments on Government bills of lading or transportation requests.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-120b.

§ 47-113a. Appointment of deputy disbursing officer and assistant disbursing officers—Compensation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-113c. Penalties for official misconduct of disbursing officers—Bond.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(360) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to fixing amounts of bonds, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-120a. Liability of auditor or employees—Exceptions—Bond.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(360) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to fixing amounts of bonds, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-112b, 47-120b.

§ 47-120b. Enforcement of liability against persons certifying—Application for decision by Comptroller General.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-112b.

§ 47-122. Chief clerk to act in event of absence or disability of auditor.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(361) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to requiring the giving of bond, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-131. Repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24-418a, 24-451, 24-455.

§ 47-135. Investment of District of Columbia's funds in United States Government securities—Deposit of interest to credit of appropriate fund—Sale and exchange of such securities.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-136. Maintenance and repairs of vehicles—Working fund.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-137. Working fund for printing, duplicating, and photographing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-138. Restoration of lapsed appropriations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-140. Trust funds held by District of Columbia—Lack of communication by owners of fund—Notice to owners that claims will be barred.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-141 to 47-144.

§ 47-141. Publication of notice relating to unclaimed funds—Form and contents of notice—Deposit of unclaimed funds in the Treasury of the United States.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-140, 47-142 to 47-144.

§ 47-142. Small sums—Exemptions from notice requirements.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-143, 47-144.

§ 47-143. Deductions of expenses upon refunds to depositors—Deposit of deductions in the Treasury of the United States.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-144.

§ 47-144. "Commissioners" defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-143.

§ 47-145. Use of appropriated funds to promote demonstrations to influence legislation or other governmental action—Exception.

No funds appropriated for the government of the District of Columbia may be used to furnish materials or services to promote or further any demonstration in the District of Columbia undertaken for the purpose of influencing legislation or other governmental actions of the United States Government or the government of the District of Columbia, except that nothing in this section shall preclude the government of the District of Columbia from taking such emergency action as the Commissioner of the District of Columbia determines necessary for the preservation of the health, safety, or welfare of any person within the District of Columbia. (Aug. 2, 1968, Pub. L. 90-450, title IV, § 402, 82 Stat. 615.)

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

LIMITATION ON NEW EMPLOYEES DURING FISCAL YEAR 1970

Section 802 of act, Oct. 31, Pub. L. 91-106, provided: "During the fiscal year ending June 30, 1970, no person shall be appointed—

"(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 41,500; or

"(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of Act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

The enacting clause of Act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968".

Chapter 2.—BUDGET ESTIMATES

§ 47-201. Salaries of force for protection of courthouse—Payment—Estimates.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-202. Estimates—Repairs to schools.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions)

shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-203. Estimates for schools to be in accordance with 5-year building program.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-204. Certain expenses of United States District Court for the District of Columbia.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the

requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-205. Commissioners' annual estimates—To include report of assignment of certain market employees.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-206. Estimates for employees and for maintenance of sewers.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-207. Estimates for employees for maintenance of highway bridge and approaches.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS
Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-208. Estimates for witnesses and securing evidence in claims against the District of Columbia.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-209. Estimates for assessment of real estate.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the

Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707.

§ 47-210. Estimates for water department.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-211. Estimates for expenses of District—Order of arrangement.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-212. Publication of estimates of the District.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

§ 47-213. Estimates for offices of probation officer and Register of Wills, and Commission on Mental Health.

TRANSFER OF FUNCTIONS WITH RESPECT TO APPROPRIATIONS

Section 403 of Reorganization Plan No. 3 for 1967, effective November 3, 1967, provides:

"Budget. Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

"(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

"(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

"(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

"(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

"(e) If the Council does not approve or revise the requests within thirty days next following their receipt, the requests shall be deemed to be approved by the Council.

"(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council."

Chapter 3.—COLLECTION AND DISBURSEMENT OF TAXES

§ 47-302. Collector of taxes—Bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-303. Deputy collector of taxes—Duties—Bond.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(362) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to requiring the giving of bond, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-305. Account books to be kept by collector.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board

of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-307. Waiver of interest and penalties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-308. Collector may omit uncollectible taxes from record of assets.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-309. Disbursement of taxes and appropriations—Vouchers—Settlement of accounts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-112, 47-310.

§ 47-310. Requisition by Commissioners—Appropriations not to be exceeded—Accounting.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-311. "Miscellaneous Trust Fund Deposits"—Advances—Audit—Separate accounts to be kept.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§§ 47-312, 47-313.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 45-735.

§ 47-314. Abatement of taxes.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 4.—DESIGNATION OF PROPERTY FOR ASSESSMENT AND TAXATION**§ 47-401. Squares, lots, blocks, parcels, to be numbered.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-402.

§ 47-403. Daily transcript from records of recorder of deeds and register of wills.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-404. Designation of land for assessment—Beyond city limits.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 47-408.

§ 47-405. Designation of land to be numbered.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-406. Designation of land—Plat books to be made under authority of Commissioners—Custody of surveyor.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-407. Surveyor's office to make daily transcripts of records of deeds, wills, condemnations, and decrees.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 5.—RATES, RECORDS, AND SURPLUS FUNDS**§ 47-501. Assessment of taxes on real and personal property—Rate of taxation—Collection.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(363) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to ascertaining, determining, and fixing annually rate of taxation, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-502. Treasury Department to keep record of receipts and disbursements relative to District of Columbia.**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 47-503.

§ 47-503. Disposition of surplus funds—To be applied to succeeding year's expenditures.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(364) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 364, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 6.—TAX ASSESSOR**§ 47-602. Assessor to furnish bond.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-603. Records to be kept by assessor—Duties of assessor.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-604. Board of assistant assessors—Appointment—Qualifications—Clerk.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-707.

§ 47-606. Assessor to have power to administer oaths and summon witnesses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707.

Chapter 7.—ASSESSMENT OF REAL PROPERTY

§§ 47-701, 47-702.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-604, 47-707.

§ 47-704. Commissioners to supply Board of Assistant Assessors with plats.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707.

§ 47-705. Assistant Assessor's valuation to be made separately for improvements and each tract or lot.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707.

§ 47-706. Board of Assistant Assessors to make annual tabulated report of property assessed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707

§ 47-707. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-604.

§ 47-708. Board of Equalization and Review—Annual meeting—Notice of meetings—Duties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707, 47-717, 47-2405.

§ 47-709. Valuation of real property to be complete on the first Monday of May annually.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707, 47-2405.

§ 47-710. Real property and improvements becoming subject to taxation to be listed annually.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707, 47-2405.

§ 47-711. New buildings under roof to be included in list.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2405.

§ 47-712. Assessment of omitted property—Voided assessments, reassessment of property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-604, 47-707, 47-2405.

§§ 47-713 to 47-715.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-716.

§ 47-716. Application for redistribution or reassessment—Notice—Validity.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2405.

§ 47-717. Reassessment of real estate by Board of Assistant Assessors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-716.

§ 47-721. Reassessment of taxes declared void by court.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-722. Valuation of United States property in the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 8.—EXEMPTIONS FROM TAXATION

§ 47-801. Repealed.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-821 to 47-826, 47-828, 47-830.

§ 47-801a. Government property—Property of educational, charitable, religious or scientific institutions—Profits arising from sale of property.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(365) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (e) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7-948, 45-722, 47-801b to 47-801f.

§ 47-801a-2. National Society of the Colonial Dames of America.

The property in the District of Columbia described as lot numbered 801, in square numbered 1285, together with the improvements thereon, known as premises number 2715 Q Street Northwest, and the furnishings therein, owned by the National Society of the Colonial Dames of America, a corporation organized and existing under the laws of the District of Columbia, shall be exempt from taxation, national and municipal, so long as the same is used for nonprofit purposes. There shall also be exempt from taxation upon the same terms and conditions the adjoining property owned by the National Society of the Colonial Dames of America, now designated on the records of the Assessor of the District of Columbia as Lots 813 and 814 in Square 1285, together with any improvements which may hereafter be erected thereon by said National Society of the Colonial Dames of America. (Sept. 7, 1949, 63 Stat. 694, ch. 564; Aug. 3, 1968, Pub. L. 90-459, § 1, 82 Stat. 634.)

AMENDMENT

1968—Section 1, act Aug. 3, 1968, Pub. L. 90-459, amended section by adding the second sentence thereto.

APPLICABILITY OF AMENDMENT

Section 2, act Aug. 3, 1968, Pub. L. 90-459, provided: "This amendment (adding the second sentence) shall apply with respect to taxable years beginning after June 30, 1968."

§ 47-801b. Income producing property of exempt institutions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-722, 47-801a, 47-801a-1, 47-801b-1, 47-801d to 47-801f, 47-831 to 47-836.

§ 47-801c. Report as to use of exempt property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-722, 47-801a, 47-801a-1, 47-801b, 47-801d to 47-801f, 47-831 to 47-836.

§ 47-801d. Abatement or refund of tax assessed against exempt property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-722, 47-801a, 47-801b, 47-801e, 47-801f.

§ 47-801e. Appeal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-722, 47-801a, 47-801a-1, 47-801b, 47-801d, 47-801f, 47-831 to 47-836.

§ 47-801f. Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(366) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-722, 47-801a, 47-801b, 47-801d, 47-801e.

Chapter 10.—REAL PROPERTY TAX SALES

§ 47-1001. Delinquent tax list—Publication of notice—Competitive proposals—Sale.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(367) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to fixing date of sale of real property on which taxes are levied and in arrears, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1002, 47-1003.

§ 47-1002. Sale of property—Purchase by District.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1003.

§ 47-1003. Deposit required—Certificate of sale—Tax deed—Redemption.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1004.

NOTES TO DECISIONS

Denial of preliminary injunction

An appeal from a denial of a motion for preliminary injunction by a lienor which sought to enjoin the commissioners of District of Columbia from issuing a tax deed to a purchaser at a tax sale could not be equated with an appeal from a final disposition on the merits, notwithstanding ambiguity of the record as to whether district court had undertaken to decide the substantive question of right of the lienor to redeem prior to actual issuance of a tax deed notwithstanding expiration of the statutory two year redemption period. *Industrial Bank of Washington v. W. N. Tobriner et al., etc.* (1968, 405 F. 2d 1321, 132 U.S. App. D.C. 51).

§ 47-1004. Changed interest rates to apply only to sales after June 25, 1938.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1003.

§ 47-1005. Property sold for taxes redeemable within 2 years from sale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1003.

NOTES TO DECISIONS

Denial of preliminary injunction

An appeal from a denial of a motion for preliminary injunction by a lienor which sought to enjoin the commissioners of District of Columbia from issuing a tax deed to a purchaser at a tax sale could not be equated with an appeal from a final disposition on the merits, notwithstanding ambiguity of the record as to whether district court had undertaken to decide the substantive question of right of the lienor to redeem prior to actual issuance of a tax deed notwithstanding expiration of the statutory two year redemption period. *Industrial Bank of Washington v. W. N. Tobriner et al., etc.* (1968, 405 F. 2d 1321, 132 U.S. App. D.C. 51).

§ 47-1006. Report of tax sale to be filed with recorder of deeds—Disposition of surplus on redemption.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1003.

§ 47-1007. Commissioners not to convey any property if sale is void.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the Office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1003.

§§ 47-1008, 47-1009.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1003.

§ 47-1011. Liens on real estate for unpaid taxes—Enforcement—Redemption before sale.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1014.

§ 47-1012. Real estate to be sold—Notice to owner—Parties defendant—Court order—Validity of service and sale.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1014.

§ 47-1013. Court to decree sale by collector of taxes—No penalty if defect in tax sale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1014.

§ 47-1016. Taxes erroneously paid to be refunded.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 11.—SPECIAL ASSESSMENTS

§ 47-1101. Protest against special assessment—Hearing—Report and exceptions—Decision.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1103, 47-1104.

§ 47-1102. Abatement, reduction, or adjustment of special assessment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1103, 47-1104.

§ 47-1103. Notice of levying of special assessment—Publication—Payment of special assessment—Interest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1001a, 47-1101, 47-1104.

§ 47-1104. Payment of special assessment after ratification—Sale for nonpayment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1103.

§ 47-1105. Assessment for removal of nuisance—Sale for nonpayment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1103, 47-1104.

§ 47-1106. Reassessment where special assessment set aside—Hearing—Agent's report of Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1103, 47-1104.

Chapter 12.—TAXATION OF PERSONAL PROPERTY

§§ 47-1201, 47-1202.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

§ 47-1203. Assessor to prepare printed blank forms—Mode of assessment, returns—False affidavit, penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1213, 47-1303, 47-1304.

§§ 47-1204 to 47-1206.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

§ 47-1207. Rate of taxation—Exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303, 47-1304, 47-1701.

§ 47-1208. Personal property exempt from taxation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1207, 47-1213, 47-1303, 47-1304.

§ 47-1209. Payment of taxes—To be made semiannually—Mandamus to compel filing sworn return—Expenses.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1301, 47-1303, 47-1304.

§§ 47-1210, 47-1211.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

§ 47-1212. Mercantile establishments and carriers by water.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1206, 47-1213, 47-1303, 47-1304.

§ 47-1213. Board of Personal Tax Appeals—Constitution—Proceedings.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1303, 47-1304.

§ 47-1214. Clerk of Board of Personal Tax Appraisers—Appointment.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

Chapter 13.—ENFORCEMENT OF PERSONAL PROPERTY TAXES BY DISTRAINT OR LEVY**§ 47-1301. Distraint of property for nonpayment of taxes—Sale—Disposition of surplus.**

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

§ 47-1302. Sale of distrained goods for nonpayment of taxes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

§ 47-1303. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1304.

§ 47-1304. Remedies for collection of intangible tax—Common-law and equitable remedies available for collection of all taxes and assessments.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303.

§ 47-1305. Sale of real estate to satisfy personal tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1203, 47-1213, 47-1303, 47-1304.

Chapter 14.—ENFORCEMENT OF PERSONAL PROPERTY TAXES BY ACQUISITION OF LIEN**§ 47-1402. Neglect or refusal to pay personal property taxes—Collection by distraint—Levy—Public notice of intended sale—Sale to be public—Report—Disposition of surplus above taxes.**

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1410. Failure to file return—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1412.

§ 47-1412. Secrecy of returns.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 15.—INCOME AND FRANCHISE TAXES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 21-311.

SUBCHAPTER II.—INCOME AND FRANCHISE TAXES FOR TAXABLE YEARS AFTER JANUARY 1, 1947

TITLE VI—TAX ON RESIDENTS AND NONRESIDENTS

Sec.

47-1567e. Credit for sales tax paid.

TITLE XI—BASIS

47-1583a. Computation of gain or loss.

47-1583b. Repealed.

47-1583d. Repealed.

TITLE XII—ASSESSMENT AND COLLECTION; TIME OF PAYMENT

47-1586l-1. Declarations of estimated tax by corporations and unincorporated businesses—Failure by corporation or unincorporated business to pay estimated tax—Overpayment; credit of tax.

SUBCHAPTER I.—INCOME TAX FOR TAXABLE YEARS PRIOR TO JANUARY 1, 1947

§§ 47-1501 to 47-1503.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1504. Gross income and exclusions therefrom.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1505. Deductions from gross income.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1524, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1506 to 47-1508.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1509. Personal exemptions and credit for dependents.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1502, 47-1524, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1510. Accounting periods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1511, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1511 to 47-1518.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1519. Extension of time for filing returns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1526, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1520 to 47-1522.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1523. Fiduciary returns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1515, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1524, 47-1525.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1526. Time of payment of tax—Extension—Advance payments—Fractional part of cent—Collector.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1541, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1527 to 47-1530.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1531. Determination and assessment of deficiency—Protest—Appeal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1534, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1532 to 47-1534.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1535. Closing agreements.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1536. Compromise—Concealment of assets—Penalties.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§§ 47-1537 to 47-1539.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1540, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1540. Additions to the tax in case of nonpayment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1541. Time extended for payment of tax shown on return.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1540, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1542. Penalties—"Person" defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1543. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1510, 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1544. Information returns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1545. Withholding of tax at source.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1546. Licenses—Corporations liable—Duration—Posting—Revocation—Renewal—Penalties—"Business" defined.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

§ 47-1547. Compensation for services rendered for a period of five years or more.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1551, 47-1551b, 47-1583, 47-1591, 47-2413.

SUBCHAPTER II.—INCOME AND FRANCHISE TAXES FOR TAXABLE YEARS AFTER JANUARY 1, 1947

SUBCHAPTER REFERRED TO IN U.S. CODE

This subchapter is referred to in section 5516 of title 5, U.S. Code.

TITLE I.—REPEAL OF PRIOR INCOME TAX LAW AND APPLICABILITY OF SUBCHAPTER; GENERAL DEFINITIONS

§ 47-1551. Repeal of sections 47-1501 to 47-1547 and retention of certain provisions thereof.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1580, 47-1589e, 47-1591, 47-2413.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

§§ 47-1551a, 47-1551b.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1580.

§ 47-1551c. General definitions.

* * * * *

(l) (1) The term "capital asset" means property defined or treated as a capital asset under the Internal Revenue Code of 1954.

(2) For the purpose of computing for any taxable year the tax imposed under this article with respect to sales or other dispositions of property referred to in subparagraph (1), the provisions of the Internal Revenue Code of 1954 relating to the treatment of gains and losses (other than the alternative tax imposed by section 1201 of such Code) shall apply.

(m) The word "dividend" means any distribution made by a corporation (domestic or foreign) to its stockholders or members, out of its earnings, profits, or surplus (other than paid-in surplus), whenever

earned by the corporation and whether made in cash or any other property (other than stock of the same class in the corporation if the recipient of such stock dividend has neither received nor exercised an option to receive such dividend in cash or in property other than stock instead of stock) and whether distributed prior to, during, upon, or after liquidation or dissolution of the corporation, except that in the case of any such distribution any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1954 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this subchapter: *Provided, however,* That in the case of any dividend which is distributed other than in cash or stock in the same class in the corporation and not exempted from tax under this subchapter, the basis of tax to the recipient thereof shall be the market value of such property at the time of such distribution: *And provided, however,* That the word "dividend" shall not include any dividend paid by a mutual life insurance company to its shareholders.

* * * * *

(aa) Repealed, by act Oct. 31, 1969, Pub. L. 91-106, § 601(a)

* * * * *

(As amended, Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(a), 83 Stat. 176.)

REFERENCES IN TEXT

The section of the Internal Revenue Code of 1954 referred to in subsections (w), (x), (y) are classified to 26 U.S.C. 3401 (a), (b), and (d).

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 601(a) amended this section as follows:

(1) Amended subsection (l) to read as above set out. Prior to this amendment the subsection read as follows: "(l) The words 'capital assets' mean any property, whether real or personal, tangible or intangible, held by the taxpayer for more than two years (whether or not connected with his trade or business), but do not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the end of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business."

(2) Amended subsection (m) by inserting before the colon preceding the first proviso, the exception clause relating to capital gains.

(3) Repealed, subsection (aa). This subsection read as follows: "(aa) Notwithstanding subsection (m) of this section, any distribution in liquidation of a regulated public utility (as defined in section 7701(a) (33) (A) (iii) of the Internal Revenue Code of 1954) which, for purposes of the Internal Revenue Code of 1954, is treated as in part or full payment in exchange for the stock in such utility, shall, if for purposes of this article the stock is a capital asset, be treated as in part or full payment in exchange for the stock."

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by the Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App. 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1561, 47-1580, 47-1583d.

SECTION REFERRED TO IN U.S. CODE

This section is referred to in title 5 section 5516 of the U.S. Code.

NOTES TO DECISIONS

Capital assets
Since findings clearly established that good will of an acquired company was a capital asset held more than two years, gain from sale of such capital asset was exempt from franchise tax. *A.C.F. Industries, Incorporated v. District of Columbia* (1967, 382 F. 2d 463, 127 U.S. App. D.C. 247).

Constitutionality
The taxation of a liquidating dividend representing earnings realized by a corporation prior to the effective date of first District of Columbia income tax did not violate the due process clause of Fifth Amendment on the theory that imposition of income tax constituted retroactive taxation. *American Security and Trust Company, Surviving Trustee etc. v. District of Columbia* (1969, 408 F. 2d 1295, — U.S. App. D.C. —).

Dividends
Pursuant to a section of the District of Columbia Code defining “dividend” as any distribution to stockholders whenever earned by the corporation, distributions of corporate earnings accumulated prior to date of the first District of Columbia income tax are taxable. *American Security and Trust Company, Surviving Trustee etc. v. District of Columbia* (1969, 408 F. 2d 1295, — U.S. App. D.C. —).

§§ 47-1552, 47-1553.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1589e, 47-1591, 47-2413.

TITLE II.—EXEMPT ORGANIZATIONS

§ 47-1554. Exempt organizations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1571a, 47-1574b, 47-1589e, 47-1591, 47-2413.

TITLE III.—NET INCOME, GROSS INCOME AND EXCLUSIONS THEREFROM, AND DEDUCTIONS

§ 47-1557. Net income.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589e, 47-1591, 47-2413.

§ 47-1557a. Gross income and exclusions therefrom.

(a) The words “gross income” include gains, profits, and income derived from salaries, wages, or compensation for personal services of whatever kind and in whatever form paid, including salaries, wages, and compensation paid by the United States to its officers and employees to the extent the same is not exempt under this subchapter, or income derived from any trade or business or sales or dealings in property, whether real or personal, including capital assets as defined in this subchapter, growing out of the ownership, or sale of, or interest in, such property; also from rent, royalties, interest, dividends, securities, or transactions of any trade or business carried on for gain or profit, or gains or profits, and income derived from any source whatever.

(b) The words “gross income” shall not include the following:

(5) *Compensation for Injuries or Sickness.*—To the extent not otherwise specifically excluded from gross income under this subchapter, amounts excluded from gross income under sections 104 and 105 of the Internal Revenue Code of 1954.

(11) Repealed, by act Oct. 31, 1969, Pub. L. 91-106, § 601(b) (2).

(As amended, Oct. 31, 1969, Pub. L. 91-106, title VI, §§ 601(b) (1) (2), 602, 83 Stat. 176, 177.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 601(b) (1) (2), amended subsection (a) by striking out “other than capital assets” and inserting “including capital assets” and repealing par. 11 of subsection (b) which provided: “(11) Capital gains.—Gains from the sale or exchange of any capital assets as defined in this subchapter.” Section 602 of the same act amends (b) (5) to read as above set out. The former provisions of (b) (5) are as follows: “(5) *Compensation for injuries or sickness.*—Amounts received, through accident or health insurance or under workmen’s compensation or employer’s liability acts, or by way of damages for personal injuries, whether by suit or agreement.”

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: “The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969.”

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: “Nothing in the amendments made by this title [for classification of amendments made by ‘this title’ (title VI of Pub. L. 91-106) see enumerations of sections under ‘Effective Date of 1969 Amendments’ set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property.”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided: “(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law

shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(368) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b)(17) in the particulars described in par. 368, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

(Note. Par. 368 of section 402 of the Plan, refers to section 47-1577a(b)(17). On the assumption that this is a typographical error, this note is set out under this section.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29-933, 47-1577i, 47-1580.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

Capital assets

Since findings clearly established that good will of an acquired company was a capital asset held more than two years, gain from sale of such capital asset was exempt from franchise tax. *A.C.F. Industries, Incorporated v. District of Columbia* (1967, 382 F. 2d 463, 127 U.S. App. D.C. 247).

§ 47-1557b. Deductions.

(a) Deductions allowed.—

* * * *

(4) *Losses*.—Losses sustained during the taxable year and not compensated for by insurance or otherwise—

(A) if incurred in a trade or business; or

(B) if incurred in any transaction entered into for the production or collection of income subject to tax under this subchapter, or for the management, conservation, or maintenance of property held for the production of income subject to tax under this subchapter, though not connected with any trade or business; or

(C) of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft, except that in the case of an individual, a loss described in this subparagraph shall be allowed only to the extent that the amount of loss to such individual

arising from each casualty, or from each theft, exceeds \$100.

For purposes of the \$100 limitation of subparagraph (C), a husband and wife making a joint return for the taxable year in which the loss is allowed as a deduction shall be treated as one individual. No loss described in this paragraph shall be allowed if, at the time of filing the return, such loss has been claimed for inheritance or estate tax purposes.

* * * *

(b) Deductions not allowed.—

* * * *

(6) Repealed. Oct. 31, 1969, Pub. L. 91-106, § 601(b)(4).

(As amended Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(b)(3)(4), 83 Stat. 177.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 601(3)(4), amended sections as follows:

(1) Subsection (a) by striking out (4)(C) and inserting a new par. (4)(C) as above set out. The prior provisions of (4)(C) read as follows:

“(C) of property not connected with a trade or business; if such losses arise from fires, storms, shipwrecks, thefts, or other casualty: *Provided, however,* That no such loss shall be allowed as a deduction under this subsection if such loss is claimed as a deduction for inheritance- or estate-tax purposes: *And provided further,* That this subsection shall not be construed to permit the deduction of a loss of any capital asset as defined in this subchapter.”

(2) Repealed subsection(b)(6) which provided:

“(6) *Capital losses*.—Losses from the sale or exchange of any capital asset as defined in this subchapter.”

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: “The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1587e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969.”

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: “Nothing in the amendments made by this title [for classification of amendments made by ‘this title’ (title VI of Pub. L. 91-106) see enumerations of sections under ‘Effective Date of 1969 Amendments’ set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning

before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property.”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

“(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App. 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(369) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) (7) in the particulars described in par. 369, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557a, 47-1567b, 47-1577d, 47-1577g, 47-1583e.

§§ 47-1558 to 47-1560.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1589e, 47-1591, 47-2413.

TITLE IV.—ACCOUNTING PERIODS, INSTALLMENT SALES, AND INVENTORIES

§ 47-1561. Accounting periods.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1561a, 47-1589e, 47-1591, 47-2413.

§§ 47-1562, 47-1563.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1589e, 47-1591, 47-2413.

TITLE V.—RETURNS

§ 47-1564. Form of returns and duty to file.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1564b, 47-1564c, 47-1567e, 47-1589e, 47-1591, 47-2413.

§ 47-1564a. Requirement—Who must file.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the

first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1564b, 47-1567e.

§ 47-1564b. Filing of returns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1567e, 47-1586f, 47-1586l-1.

§ 47-1564c. Divulging of information.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1567e, 47-1586g.

TITLE VI.—TAX ON RESIDENTS AND NONRESIDENTS

§ 47-1567. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1574e, 47-1577b, 47-1589e, 47-1591, 47-2413.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

§ 47-1567a. Personal exemptions and credit for dependents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1567, 47-1567e, 47-1577b, 47-1577d.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

§ 47-1567b. Imposition and rates of tax—Optional method of computation.

(a) In the case of a taxable year beginning after December 31, 1967, there is hereby imposed on the taxable income of every resident a tax determined in accordance with the following table:

If the taxable income is	The tax is
Not over \$1,000-----	2% of the taxable income.
Over \$1,000 but not over \$3,000 -----	\$20 plus 3% of excess over \$1,000.
Over \$3,000 but not over \$5,000 -----	\$80 plus 4% of excess over \$3,000.
Over \$5,000 but not over \$10,000 -----	\$160 plus 5% of excess over \$5,000.
Over \$10,000-----	\$410 plus 6% of excess over \$10,000.

(b) * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title II, § 201, 82 Stat. 612.)

AMENDMENTS

1968—Section 201, Pub. L. 90-450, amended subsection (a) to read as above set out. The amendment rearranged the bracket structure of the table of taxable income and the rates applicable to each bracket and increased the maximum rate from 5 to 6 percent.

EFFECTIVE DATE OF PUB. L. 90-450

Section 205, Pub. L. 90-450, provided: "The amendments made by sections 201 and 202 of this title [amendments of 47-1567b(a), 47-1571a and 47-1574b] shall be applicable to taxable years beginning after December 31, 1967. The amendments made by section 203 [amendments of 47-1586f(a) (4) and 47-1589(b)] of this title shall take effect on the date of enactment of this Act." [Aug. 2, 1968.]

PRESERVATION OF EXISTING RIGHTS AND LIABILITIES—
PROSECUTIONS UNDER EXISTING LAWS

Section 204, Pub. L. 90-450, provided:

"(a) The amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947 [amendments of sections 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4) and 47-1589(b)] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such Act shall continue, and may be enforced in the same manner and to the same extent, as if such amendment had not been made.

"(b) All offenses committed, and all penalties incurred, under any provision of law hereby amended, may be prosecuted and punished in the same manner and with the same effect as if this title [the amendments enumerated above] had not been enacted."

SHORT TITLE

The enacting clause of act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(370) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) in the particulars described in par. 370, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1574e, 47-1577b.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

§ 47-1567c. Repealed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1574e, 47-1577b.

§ 47-1567d. Credits against tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1567b, 47-1574e, 47-1577b.

NOTES TO DECISIONS

Domicile as a prerequisite to tax liability

District of Columbia Income and Franchise Tax Act did not by its terms subject to tax income earned in the first three months of year by person who was domiciled in another state and then moved to the District in which he became a domicile and resident thereof for the remaining nine months of the year and who paid tax to District on income earned for nine months in which he was a domicile. *District of Columbia v. P. S. Davis* (1967, 371 F. 2d 964, 125 U.S. App. D.C. 311).

§ 47-1567e. Credit for sales tax paid.

(a) (1) For the purpose of providing relief to certain low-income residents of the District for sales tax paid on purchases of groceries, there shall be allowed to an individual a credit against the tax (if any) imposed by this article in an amount determined in accordance with the following table:

The credit shall be the product of the number of personal exemptions allowed an individual on his return under section 47-1567a times—

If the adjusted gross income is:

Not over \$2,000	\$6. 00
Over \$2,000, but not over \$4,000	4. 00
Over \$4,000, but not over \$6,000	2. 00

(2) For purposes of paragraph (1), in determining the number of personal exemptions allowed an individual on his return under section 47-1567a—

(A) there shall be excluded any exemption based on age or blindness,

(B) there shall be included one additional exemption in any case in which an exemption of \$2,000 is allowed for a head of family or a married person living with husband or wife, and

(C) there shall be excluded any exemption for any person who is an inmate or resident patient of a publicly owned and operated institution for an aggregate or more than 183 days of the taxable year.

(b) If the amount of credit allowed an individual by subsection (a) for a taxable year exceeds the amount of tax (computed without regard to such subsection but after allowance of any other credit allowable under this article) imposed under this article on such individual for such taxable year a refund shall be allowed such individual to the extent that such credit exceeds the amount of such tax.

(c) No credit (or refund) shall be allowed to an individual under this section unless—

(1) such individual files a return under this article for a taxable year of not less than twelve months,

(2) such individual maintained his place of abode within the District for the entire taxable year of twelve months, and

(3) (A) in the case of an individual who is required to file a return under sections 47-1564 to 45-1564c, a return is filed by such individual within the time prescribed in section 47-1564b, or

(B) in the case of an individual who is not required to file a return under sections 47-1564 to 45-1564c, a return is filed by such individual under this section not later than the fifteenth day of the fourth month following the close of such taxable year.

In the case of an individual described in paragraph (3) (B), the Commissioner may grant a reasonable

extension of time (but not more than six months) for filing a return under this section whenever in the Commissioner's judgment good cause exists therefor.

(d) (1) A husband and wife filing separate returns for a taxable year for which a joint return could have been made by them may claim between them only the total credit (or refund) to which they would have been entitled under this section had a joint return been filed.

(2) No individual for whom a personal exemption was allowed on another individual's return shall be entitled to a credit (or refund) under this section. (July 16, 1947, 61 Stat. 345, ch. 258, Art. I, title VI, § 6, as added, Oct. 31, 1969, Pub. L. 91-106, title VI, § 605(a), 83 Stat. 179.)

REFERENCE IN TEXT

"This article" referred to in text is the act of July 16, 1947, ch. 258, 61 Stat. 331 et seq., known as the "District of Columbia Income and Franchise Tax Act of 1947" generally classified to title 47, chapter 15 of the D.C. Code. For complete classification see tables.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by "this title" (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect

any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TITLE VII.—TAX ON CORPORATIONS

§ 47-1571. Taxable income defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1574, 47-1589e, 47-1591, 47-2413.

NOTES TO DECISIONS

Principal place of business

In this case, there is no question that the principal offices and businesses were located outside the District of Columbia and were located in the states where the loans were made and the payments thereon received. The facts are clear that the principal place of business for each subsidiary was not in the District of Columbia, and the argument that for source purposes there could be more than one source—one within and one without the District of Columbia—is answered by pointing out that by its clear meaning this cannot be. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

Source and situs

The source of interest income is the obligor and its situs is his residence. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

Source of dividends

The source of dividends is the domicile of the paying or issuing corporation. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

Source of income defined

Common sense requires that the question of source or domicile in the case of dividend and interest source is one which is resolved by finding the principal office and business of the corporation. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

§ 47-1571a. Imposition and rate of tax.

For the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is hereby levied for each taxable year a tax at the rate of 6 per centum upon the taxable income of every corporation, whether domestic or foreign (except those expressly exempt under section 47-1554). The minimum tax payable shall be \$25.00. (July 16, 1947, 61 Stat. 345, ch. 258, Art. I, title VII, § 2; Aug. 2, 1968, Pub. L. 90-450, title II, § 202(a), 82 Stat. 612; Oct. 31, Pub. L. 91-106, title VI, § 604 (a) (1), 83 Stat. 178.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 604(a) (1) amended section by adding "The minimum tax payable shall be \$25.00".

1968—Section 202(a), Pub. L. 90-450, amended section by striking out "5 per centum" and inserting in lieu thereof "6 per centum".

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

EFFECTIVE DATE OF PUB. L. 90-450

Section 205, Pub. L. 90-450, provided: "The amendments made by sections 201 and 202 of this title [amendments of 47-1567b(a), 47-1571a and 47-1574b] shall be applicable to taxable years beginning after December 31, 1967. The amendments made by section 203 [amendments of 47-1586f(a) (4) and 47-1589(b)] of this title shall take effect on the date of enactment of this Act." [Aug. 2, 1968.]

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

PRESERVATION OF EXISTING RIGHTS AND LIABILITIES—
PROSECUTIONS UNDER EXISTING LAWS

Sec. 204, Pub. L. 90-450, provided: "(a) The amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947 [amendments of sections 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4) and 47-1589(b)] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such Act shall continue, and may be enforced in the same manner and to the same extent, as if such amendment had not been made.

"(b) All offenses committed, and all penalties incurred, under any provision of law hereby amended, may be

prosecuted and punished in the same manner and with the same effects as if this title [the amendments enumerated above] had not been enacted."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. (See tables for complete classification of this Act.)]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1574.

NOTES TO DECISIONS

Principal place of business

In this case, there is no question that the principal offices and businesses were located outside the District of Columbia and were located in the states where the loans were made and the payments thereon received. The facts are clear that the principal place of business for each subsidiary was not in the District of Columbia, and the argument that for source purposes there could be more than one source—one within and one without the District of Columbia—is answered by pointing out that by its clear meaning this cannot be. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S.C. App. D.C. 116).

Source and situs

The source of interest income is the obligor and its situs is his residence. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

Source of dividends

The source of dividends is the domicile of the paying or issuing corporation. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

TITLE VIII.—TAX ON UNINCORPORATED BUSINESSES

§ 47-1574. Definition of unincorporated business.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557a, 47-1557b, 47-1564a, 47-1567, 47-1567d, 47-1589e, 47-1591, 47-2413.

§ 47-1574a. Taxable income defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557a, 47-1557b, 47-1564a, 47-1567, 47-1567d.

§ 47-1574b. Imposition of rate of tax.

For the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is hereby levied for each taxable year a tax at

the rate of 6 per centum upon the taxable income of every unincorporated business, whether domestic or foreign (except those expressly exempt under section 47-1554). The minimum tax payable shall be \$25.00. (July 16, 1947, 61 Stat. 346, Art. I, title VIII, § 3; Aug. 2, 1968, Pub. L. 90-450, title II, § 202(b), 82 Stat. 612; Oct. 31, 1969, Pub. L. 91-106, title VI, § 604(a) (2), 83 Stat. 179.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 604(a) (2) amended section by adding "The minimum tax payable shall be \$25.00."

1968—Section 202(b), Pub. L. 90-450, amended section by striking out "5 per centum" and inserting in lieu thereof "6 per centum".

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

EFFECTIVE DATE OF PUB. L. 90-450

Section 205, Pub. L. 90-450, provided: "The amendments made by sections 201 and 202 of this title [amendments of 47-1567b(a), 47-1571a and 47-1574b] shall be applicable to taxable years beginning after December 31, 1967. The amendments made by section 203 [amendments of 47-1586f(a) (4) and 47-1589(b)] of this title shall take effect on the date of enactment of this Act." [Aug. 2, 1968.]

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

PRESERVATION OF EXISTING RIGHTS AND LIABILITIES—
PROSECUTIONS UNDER EXISTING LAWS

Section 204, Pub. L. 90-450, provided:

"(a) The amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947

[amendments of sections 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4) and 47-1589(b)] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such Act shall continue, and may be enforced in the same manner and to the same extent, as if such amendment had not been made.

"(b) All offenses committed, and all penalties incurred, under any provision of law hereby amended, may be prosecuted and punished in the same manner and with the same effect as if this title [the amendments enumerated above] had not been enacted."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act (Act, Pub. L. 91-106) of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law: but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act (Act, Pub. L. 91-106), such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act (Act, Pub. L. 91-106) had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557a, 47-1557b, 47-1564a, 47-1567, 47-1567d, 47-1574c, 47-1574d.

§ 47-1574c. Exemption.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557a, 47-1557b, 47-1564a, 47-1567, 47-1567d, 47-1574a.

§§ 47-1574d, 47-1574e.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1557a, 47-1557b, 47-1564a, 47-1567, 47-1567d.

TITLE IX.—TAX ON ESTATES AND TRUSTS

§ 47-1577. Resident and nonresident estates and trusts defined.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1577a, 47-1589e, 47-1591, 47-2413.

§ 47-1577c. Computation of tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1557a.

§ 47-1577d. Net income.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1577e.

§§ 47-1577f, 47-1577g.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1577c.

TITLE X.—PURPOSE OF SUBCHAPTER AND ALLOCATION AND APPORTIONMENT

§ 47-1580. Purpose of subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557b, 47-1564a, 47-1571, 47-1574a, 47-1589e, 47-1591, 47-1591f, 47-2413.

NOTES TO DECISIONS

Source and situs

The source of interest income is the obligor and its situs is his residence. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

Source of dividends

The source of dividends is the domicile of the paying or issuing corporation. *State Loan and Finance Corporation etc. v. District of Columbia* (1967, 381 F. 2d 895, 127 U.S. App. D.C. 116).

§ 47-1580a. Allocation and apportionment.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(371) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in par. 371, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557b, 47-1564a, 47-1571, 47-1574a, 47-1591f.

§ 47-1580b. Allocation of income and deductions between organizations, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1557b, 47-1564a, 47-1571, 47-1574a, 47-1591f.

TITLE XI.—BASES

§ 47-1583. Basis for determining gain or loss.

The basis for determining the gain or loss from the sale or other disposition of property shall be the same basis as that provided for determining gain or loss under the Internal Revenue Code of 1954. (July 16, 1947, 61 Stat. 350, ch. 258, Art. I, title XI, § 1; Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(c) (1), 83 Stat. 177.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 601(c) (1), amended section to read as above set out. The prior provisions of the section contained different and detailed provisions for determining basis of gain or loss. See 1967 edition of the code.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this

Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act (Act, Pub. L. 91-106) of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act (Act, Pub. L. 91-106), such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act (Act, Pub. L. 91-106) had not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1583a, 47-1583d, 47-1583e, 47-1589e, 47-1591, 47-2413.

§ 47-1583a. Computation of gain or loss.

The gain or loss, as the case may be, from the sale or other disposition of property, including the amount realized and the amount recognized, shall be determined in the same manner provided for the determination of gain or loss for Federal income tax purposes under the Internal Revenue Code of 1954. (July 16, 1947, 61 Stat. 350, ch. 258, Art. I, title XI, § 2; Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(c) (2) (A) (B), 83 Stat. 177.)

AMENDMENTS

1969—Act Oct. 31, Pub. L. 91-106, § 601(c) (2) (A) (B), amended section to read as above set out, also the table of contents relating to the section to read as above. Prior section contained different provisions. See 1967 edition of the code.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1583d.

§ 47-1583b. Repealed. Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(c)(3)(A)(B).

Section, act of July 16, 1947, 61 Stat. 351, ch. 258, Art. I, title XI, § 3, dealt with provisions relating to stocks or securities received in connection with the reorganization of a corporation. For provisions of the section see 1967 edition of the code.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b], of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1583d.

§ 47-1583d. Repealed. Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(c)(3)(A)(B).

Section, act July 16, 1947, 61 Stat. 351, ch. 258, Art. I, title XI, § 5, provided that sections 47-1583 through 47-1583b did not apply to the sale or exchange of property as defined as capital assets in 47-1551c(l).

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b], of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended

by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

§ 47-1583e. Depreciation.

The basis used in determining the amount allowable as a deduction from gross income under the provisions of section 47-1557b(a)(7) shall be the same basis as that provided for determining the gain from the sale or other disposition of property for Federal income tax purposes under the Internal Revenue Code of 1954. (July 16, 1947, 61 Stat. 351, ch. 258, Art. I, title XI, § 6; Oct. 31, 1969, Pub. L. 91-106, title VI, § 601(c)(4), 83 Stat. 177.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 601(c)(4) amended section to read as above set out. Prior to this amendment the section contained different provisions for determining the basis for computing a deduction. For prior provisions see 1967 edition of the code.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606 of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning

after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property.”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106, provided:

“(a) The repeal or amendment by this Act [Act, 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act [classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act] may be cited as the ‘District of Columbia Revenue Act of 1969’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1557b.

TITLE XII.—ASSESSMENT AND COLLECTION; TIME OF PAYMENT

§ 47-1586. Duties of Assessor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589e, 47-1591, 47-2413.

§ 47-1586d. Determination and assessment of deficiency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1586f, 47-1586j, 47-1593.

§ 47-1586f. Payment of tax.

(a) (1), (2), (3) * * *

(4) EMPLOYERS.—Every employer required to deduct and withhold tax under this subchapter shall make a return of, and pay to the District, the tax required to be withheld under this subchapter for such periods and at such times as the District of Columbia Council may prescribe.

* * * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title II, § 203(a), 82 Stat. 612.)

AMENDMENT

1968—Section 203(a), Pub. L. 90-450, amended subsection (a) (4) to read as above set out. The amendment eliminated the requirement of making quarterly returns and payments by the employer and authorized the District of Columbia Council to prescribe the periods and times for the returns and payments.

EFFECTIVE DATE OF PUB. L. 90-450

Section 205, Pub. L. 90-450, provided: “The amendments made by sections 201 and 202 of this title [amendments of 47-1567b(a), 47-1571a and 47-1574b] shall be applicable to taxable years beginning after December 31, 1967. The amendments made by section 203 [amendments of 47-1586f(a) (4) and 47-1589(b)] of this title shall take effect on the date of enactment of this Act. [Aug. 2, 1968.]

PRESERVATION OF EXISTING RIGHTS AND LIABILITIES—PROSECUTIONS UNDER EXISTING LAWS

Section 204, Pub. L. 90-450, provided:

“(a) The amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947 [Amendments of sections 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4) and 47-1589(b)] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such Act shall continue and may be enforced in the same manner and to the same extent, as if such amendment had not been made.

“(b) All offenses committed, and all penalties incurred, under any provision of law hereby amended, may be prosecuted and punished in the same manner and with the same effect as if this title [the amendments enumerated above] had not been enacted.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1589d.

§ 47-1586g. Withholding of tax.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(372) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing and promulgating all regulations referred to in this section, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1586j.

§ 47-1586j. Refunds.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1593.

§ 47-1586k. Closing agreements.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1586l. Compromises.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1586l-1. Declarations of estimated tax by corporations and unincorporated businesses—Failure by corporation or unincorporated business to pay estimated tax—Overpayment; credit of tax.

(a) **DECLARATION OF ESTIMATED TAX.**—Every corporation and unincorporated business required to make and file a franchise tax return under this subchapter shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax during its taxable year in such amounts and under such conditions, as the District of Columbia Council shall by regulation prescribe. In the case of the taxable year beginning in 1970, such regulations may not require payment before the last day on which a return for such taxable year is required to be filed under section 47-1564b(a) of an aggregate amount of estimated tax for such year in excess of one-half of such estimated tax.

(b) **FAILURE BY CORPORATION OR UNINCORPORATED BUSINESS TO PAY ESTIMATED TAX.**—(1) *Addition to the tax.*—In case of any underpayment of estimated tax by a corporation or an unincorporated business, there shall be added to the tax for the taxable year an amount determined at the rate of 6 per centum per annum upon the amount of the underpayment (determined under paragraph (2)) for the period of the underpayment (determined under paragraph (3)).

(2) *Amount of underpayment.*—For purposes of paragraph (1), the amount of the underpayment shall be the excess of—

(A) the amount of the installment which would be required to be paid if the estimated tax were equal to 80 per centum of the tax shown on the return for the taxable year or, if no return was filed, 80 per centum of the tax for such year, over

(B) the amount, if any, of the installment paid on or before the last date prescribed for payment.

(3) *Period of underpayment.*—The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier—

(A) the 15th day of the fourth month following the close of the taxable year; or

(B) with respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (2) (A) for such installment date.

(c) **OVERPAYMENT; CREDIT OF TAX.**—Overpayment resulting from the payment of estimated tax for a taxable year in excess of the amount determined to be due upon the filing of a franchise tax return for such taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year. No refund shall be made of any estimated tax paid unless a complete return is filed. (July 16, 1969, ch. 258, Art. I, title XII, § 14, as added by Act Oct. 31, 1969, Pub. L. 91-106, title V, § 603(a), 83 Stat. 177.)

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606 of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969.

**AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS**

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII] nothing in this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

§ 47-1586m. Definition of "person".

The term "person" as used in this title includes an officer or employee of a corporation, or a member or

employee of a partnership, who as such officer, employee, or member is under duty to perform the act in respect to which the violation occurs. (July 16, 1947, 61 Stat. 356, ch. 258, Art. I, title XII, § 14; renumbered as § 15 by act Oct. 31, 1969, Pub. L. 91-106, title VI, § 603(a), 83 Stat. 177.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 603(a) amended this section by redesignating it as section 15 and also added a new section 14, set out in this code as 47-1586l-1.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606 of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a] and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This

act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

§ 47-1586n. Payment to Collector and receipts.

The taxes provided under this subchapter shall be collected by the Collector and the revenues derived therefrom shall be turned over to the Treasury of the United States for credit to the District in the same manner as other revenues are turned over to the United States Treasury for credit to the District. The Collector shall, upon written request, give to the person making payment of any income tax a full written or printed receipt therefor. (July 16, 1947, 61 Stat. 356, ch. 258, Art. I, title XII, § 15; renumbered as § 16 by act Oct. 31, 1969, Pub. L. 91-106, title VI, § 603(a) 83 Stat. 177.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 603a amended this section by redesignating it as section 16 and also added a new section 14, set out in this code as 47-1586l-1.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606, of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This Act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TITLE XIII.—PENALTIES AND INTEREST

§ 47-1589. Failure to file return.

(a) * * *

(b) FAILURE TO FILE EMPLOYER'S RETURN.—In the case of any employer—

(1) who pursuant to this article is required to withhold taxes on wages, make a return of such taxes, and pay to the District the taxes required to be withheld pursuant to this subchapter, and

(2) who fails to withhold such taxes, make such return, or pay to the District the taxes required to be withheld pursuant to this subchapter, there shall be imposed on such employer a civil penalty (in addition to any criminal penalty provided for in this subchapter) of 5 per centum of the amount required to be shown as tax on such return if the failure is for not more than one month, with an additional 5 per centum for each additional month or fraction thereof during which such failure continues, not exceeding 25 per centum in the aggregate.

* * * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title II, § 203(b), 82 Stat. 612.)

AMENDMENT

1968—Section 203(b), Pub. L. 90-450, amended subsection (b) to read as above set out. The amendment changed the civil penalty provisions from "25 per centum of the amount of taxes that should have been properly withheld and paid over" to "5 per centum of the amount required to be shown as tax on such return if the failure is for not more than one month, with an additional 5 per centum for each additional month or fraction thereof during which such failure continues, not exceeding 25 per centum in the aggregate."

EFFECTIVE DATE OF PUB. L. 90-450

Section 205, Pub. L. 90-450, provided: "The amendments made by sections 201 and 202 of this title [Amendments of 47-1567b(a), 47-1571a and 47-1574b] shall be applicable to taxable years beginning after December 31, 1967. The amendments made by section 203 [Amendments of 47-1586f(a)(4) and 47-1589(b)] of this title shall take effect on the date of enactment of this Act." [Aug. 2, 1968.]

PRESERVATION OF EXISTING RIGHTS AND LIABILITIES—PROSECUTIONS UNDER EXISTING LAWS

Section 204, Pub. L. 90-450, provided:

"(a) The amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947 [Amendments of sections 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a)(4) and 47-1589(b)] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such Act shall continue, and may be enforced in the same manner and to the same extent, as if such amendment had not been made.

"(b) All offenses committed, and all penalties incurred, under any provision of law hereby amended, may be prosecuted and punished in the same manner and with the same effect as if this title [the amendments enumerated above] had not been enacted."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589c, 47-1589e, 47-1591, 47-2413.

§§ 47-1589a, 47-1589b, 47-1589d.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1589c

TITLE XIV.—LICENSES

§ 47-1591. Requirement. [Partial repeal.]

Subsection (a) act July 16, 1947, 61 Stat. 357, ch. 258, Art. I, title XIV, § 1, as amended was stricken by the act described below. The same act also struck out the subsection designation (b) for the remainder of the section. Former subsection (a) dealt with the licensing requirements for corporations or unincorporated business as a condition for carrying on any trade or business in the District. For complete provisions of former subsection (a) see 1967 edition of the code. The above provisions were stricken by act of Oct. 31, 1969, Pub. L. 91-106, title VI, § 604(b)(1), 83 Stat. 179.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606 of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1551c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b] of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e] of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of sections under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing

or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589e, 47-1591e, 47-1591f, 47-2413.

§ 47-1591d. Revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1591e. Renewal.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1591f. Penalty for failure to obtain license.

Any person who violates section 47-1591 shall be fined not more than \$300, and each day that such violation continues shall constitute a separate offense. All prosecutions under this section shall be brought in the District of Columbia Court of General Sessions on information by the Corporation Counsel or any of his assistants in the name of the District.

(July 16, 1947, 61 Stat. 358, ch. 258, Art. I, title XIV, § 7; Mar. 31, 1956, 70 Stat. 80, ch. 154, § 18, July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1, Oct. 31, 1969, Pub. L. 91-106, § 604(b) (2), 83 Stat. 179.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, title VI, § 604 (b) (2) amended section to read as above set out limiting its applicability to violations of section 47-1591. For provisions of section see 1967 edition of the code.

EFFECTIVE DATES OF 1969 AMENDMENTS

Section 606 of Pub. L. 91-106, provided: "The amendments made by sections 601 [amending sections 47-1531c, 47-1557a, 47-1557b, 47-1583, 47-1583a, 47-1583b, 47-1583d, 47-1583e], 602 [amending section 47-1557a], and 604(a) [amending sections 47-1571a and 47-1574b], of this title shall apply with respect to taxable years beginning after December 31, 1968. The amendments made by sections 603 and 605 [amending sections 47-1586 m and n, adding 47-1586l-1 and 47-1567e], of this title shall be effective with respect to taxable years beginning after December 31, 1969. The amendments made by section 604(b) [amending sections 47-1591 and 47-1591f] of this title shall apply with respect to calendar years beginning after December 31, 1969."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

CONSTRUCTION OF 1969 AMENDMENTS

Section 607 of Pub. L. 91-106, provided: "Nothing in the amendments made by this title [for classification of amendments made by 'this title' (title VI of Pub. L. 91-106) see enumerations of section under 'Effective Date of 1969 Amendments' set out as a note to this section] shall be construed to have the effect—(1) of increasing or decreasing the amount of District of Columbia income or franchise tax determined for any taxable year beginning before January 1, 1969, or (2) of authorizing or requiring in the determination of District of Columbia income or franchise tax for any taxable year beginning after December 31, 1968, the inclusion in gross income of any gain, or the deduction from gross income of any loss, from the sale or other disposition in a taxable year beginning before January 1, 1969, of any property."

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TITLE XV.—APPEAL

§ 47-1593. Appeal to Board of Tax Appeals for the District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589e, 47-1591, 47-1593a, 47-2413.

TITLE XVI.—RULES AND REGULATIONS

§ 47-1595. Commissioners to prescribe and publish rules.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(373) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1589e, 47-1591, 47-2413.

§ 47-1595a. Commissioners authorized to make rules and regulations in regard to District of Columbia Revenue Act of 1956.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(374) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 16.—INHERITANCE AND ESTATE TAXES

ARTICLE I.—INHERITANCE TAX

§ 47-1601. Imposition of tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1602, 47-1604 to 47-1606, 47-1608, 47-1624, 47-1627.

§ 47-1602. Tax based on market value—Appraisal.

NOTES TO DECISIONS

Deduction of federal estate taxes

Regulation permitting deduction of federal estate taxes paid only on property subject to District of Columbia inheritance tax was required to give way to plain meaning of statute manifesting clear intent of Congress to impose tax on market value of inheritance received and containing no estate tax apportionment provisions. *District of Columbia v. M. W. Payne* (1966, 374 F. 2d 261, 126 U.S. App. D.C. 47).

The full amount of federal estate taxes, which were paid from personal residuary estate as required by law and a portion of which had been paid on value of Ohio realty devised to persons other than residuary legatee, was deductible in computing residuary legatee's District of Columbia inheritance tax, notwithstanding regulation permitting deduction of federal estate taxes paid only on property subject to the District inheritance tax. *Id.*

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1608, 47-1624, 47-1627.

§ 47-1603. Appraisal deemed true value—Tax to be lien—Exceptions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1608, 47-1624, 47-1627.

§ 47-1604. Report by decedent's personal representative—Contents—Payment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1607, 47-1608, 47-1624, 47-1627.

§ 47-1605. Collection of tax from distributive share.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1608, 47-1624, 47-1627.

§ 47-1606. Property not under control of personal representative.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1607, 47-1608, 47-1624, 47-1627.

§ 47-1607. Life and future estates—Payment of tax—Lien.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1601, 47-1608, 47-1624, 47-1627.

ARTICLE II.—ESTATE TAX

§ 47-1608. Imposition of tax—Additional levy on transfers.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1603, 47-1609 to 47-1611, 47-1615, 47-1624.

§ 47-1609. Credits—Restriction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1603, 47-1610, 47-1613, 47-1615, 47-1624.

§§ 47-1610 to 47-1614.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-1603, 47-1615, 47-1624.

§ 47-1615. Tax payable within seventeen months.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1603, 47-1624.

ARTICLE III.—GENERAL

§§ 47-1616, 47-1617.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1624.

§ 47-1618. Administration—Rules—Testimony—Production of books and records.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to

the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(375) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1624.

§ 47-1619. Arrears.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1615, 47-1624.

§ 47-1620. Enforcement.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1624.

§§ 47-1621, 47-1622.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1624.

§ 47-1623. Release of lien.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(376) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1624.

§ 47-1624. Transfers of assets—Notice—Portion retained to pay tax—Assessor to examine assets—Issuance of certificate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-1624.

§ 47-1625. Bureau of Internal Revenue to supply information to Commissioners.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1628. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-1630. Compromise and settlement of taxes.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 17.—FINANCIAL INSTITUTION, GUARANTY COMPANY, AND PUBLIC UTILITY TAXES

§§ 47-1701 to 47-1709.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 26-610, 47-1203, 47-1213, 47-1303, 47-1304.

Chapter 18.—INSURANCE COMPANIES

§§ 47-1801, 47-1807.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-1806.

Chapter 19.—MOTOR FUEL TAX

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 40-103.

§ 47-1901. Rate—Use restricted.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(377 and 378) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under sections 103, 202, 203 and 205, of Pub. L. 89-11, set out as a note to this section in the particulars described in pars. 377 and 378, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 40-808, 40-809, 47-1902, 47-1903, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§ 47-1902. Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the

District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1903, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§ 47-1903. Importers—License—Application for—Contents—Fee—Bond—Issuance—Revocation.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(379) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) (5) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§ 47-1904. Monthly report to assessor of amount of fuel sold.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§ 47-1905. Invoices to be rendered by importers to all purchasers except in cases of retail sales.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1908, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§ 47-1906. Tax to be paid to collector not later than twenty-fifth day of next succeeding calendar month.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1913, 47-1915, 47-1916.

§§ 47-1907 to 47-1909.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1915, 47-1916.

§ 47-1910. Motor fuel used for any purpose other than motor vehicle—Refund of tax payment.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1901 to 47-1903, 47-1911, 47-1915, 47-1916.

§ 47-1911. Violations—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1915, 47-1916.

§ 47-1912. Tax on fuel sold by United States agency in the District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of

the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1915, 47-1916.

§§ 47-1913, 47-1914.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1915, 47-1916.

§ 47-1915. Construction—Personal tax laws not affected.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1916.

§ 47-1916. Commissioners to make necessary regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(380) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-202, 47-1902, 47-1903, 47-1910, 47-1911, 47-1915.

Chapter 20.—DOG TAX

§ 47-2001. Dog tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2006.

§ 47-2002. Collector to furnish metallic tag.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2003, 47-2006.

§ 47-2003. Impounding of dogs found at large.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 21.—PRIVATE EMPLOYMENT AGENCY LICENSES

§ 47-2101. Employment agencies—License required—Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Com-

missioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11-742, 40-105, 47-2102, 47-2105.

§ 47-2102. Bond.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(381) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to determining penal sum of bond to be deposited by applicants, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-105.

§ 47-2103. Registers.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-105.

§§ 47-2104 to 47-2106.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 40-105.

§ 47-2107. Inspection.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-105.

§ 47-2108. False information.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 47-2102.

§ 47-2109. Exceptions from license requirements.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 40-105.

Chapter 22.—PUBLIC AUCTION PERMITS

§ 47-2201. Public auction—Auction of merchandise without permit from Commissioners prohibited.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2309.

§ 47-2202. Application for permit—Fee—Information to be furnished.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2309.

§ 47-2203. Personal effects, furniture, personal livestock may be sold without permit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2309.

§ 47-2204. Suspension of license for violations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2309.

§§ 47-2205 to 47-2208.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2309.

Chapter 23.—GENERAL LICENSE LAW

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 40-903.

§ 47-2301. Licenses required for business or profession—Application—Transfer of license—Signing and sealing.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(382) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to adopting a seal, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2344a.

§ 47-2302. Compliance with fire escape laws and regulations required before license is issued.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2303. Theater licenses—Revocation for failure to comply with regulations for decency.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(383) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to prescribing regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2304. Separate license for each business, trade, or profession by same person—Place of business restricted to that designated in license—Operation under license by others prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2305. Date and expiration of license—Prorating for late application.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2344a.

§§ 47-2306 to 47-2308.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2309. Auctioneers—Penalty for failure to account.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2344a.

§ 47-2310. Barber shops and beauty parlors.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2310a.

§ 47-2311. Massage establishments—Turkish, Russian, or medicated baths.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§§ 47-2312 to 47-2320.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2321. Bowling alleys—Billiard and pool tables—Games.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2322. Shooting galleries.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§§ 47-2323 to 47-2327.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2328. Classification of buildings containing living quarters for licenses—Fees—Buildings exempt from license requirement.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(384) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this sec-

tion with respect to classifying buildings, and requiring licenses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§§ 47-2329, 47-2330.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 40-105.

§ 47-2331. Vehicles for hire—Hackers' licenses—Identification tags on vehicles—Sightseeing vehicles for school children, occasional purposes—Ambulances, private vehicles for funeral purposes—Issuance of licenses—Payment of fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(385) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (f) with respect to directing as to the identification tags to be borne by licensed vehicles, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

CODIFICATION

The reference in subsection (f) to sections 40-1001 to 40-1007 is an error. The reference should be to sections 43-201 to 43-209.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-103, 40-105, 40-301, 43-907, 44-301, 47-1914.

§ 47-2332. Rental or leasing of motor vehicle without driver.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2333. Vehicles hauling goods from public space.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2331.

§§ 47-2334, 47-2335.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2336. Sales on streets or public places.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(386) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to regulations governing the conduct of licensed vendors, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2337. Solicitors.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2338. Guides.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(387) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making regulations for the examination of applicants for licenses, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2339. Secondhand dealers—Classification—Licensing—Stolen property.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(388) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to classifying dealers in secondhand personal property, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

NOTES TO DECISIONS

Estoppel to litigate

The Court held that the District of Columbia was collaterally estopped from relitigating in criminal prosecution the issue of whether art dealer was required to obtain

secondhand dealer's license where that issue had been fully litigated before the Board of Appeals and Review and issue decided in favor of dealer. *District of Columbia v. P. H. Fisher* (D.C. App. 1969, 258 A. 2d 456).

§ 47-2340. Dealers in dangerous weapons.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(389) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making and promulgating regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2341. Private detectives.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(390) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (d) with respect to making regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§§ 47-2342, 47-2343.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2344. Commissioners may regulate, modify, or eliminate license requirements.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(391) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to requiring a license of other businesses or callings, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

NOTES TO DECISIONS

Violation of regulations

In this case the two home improvement contracts made within three days of each other relating to the same house are unenforceable because unlicensed contractor violated District of Columbia home improvement regulations by accepting from homeowner \$3,000 in full payment under the first agreement before completion of work thereunder, and homeowner could recover the \$3,000 from contractor. *R. C. Miller v. Peoples Contractors, Ltd.* (D.C. App. 1969, 257 A. 2d 476).

§ 47-2344a. Undertakers' licenses—Qualifications—Examination—License without examination—Authority of Commissioners—Appropriations—Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(392 and 393) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (b) and (d) (6) in the particulars described in pars. 392 and 393, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2345. Promulgation of regulations authorized—Suspension or revocation of licenses—Bonding of licensees authorized to collect moneys—Exemptions.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(394, 395 and 396) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section in the particulars described in pars. 394, 395 and 396, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907, 47-2339.

NOTES TO DECISIONS

Violation of regulations

In this case the two home improvement contracts made within three days of each other relating to the same house are unenforceable because unlicensed contractor violated District of Columbia home improvement regulations by accepting from homeowner \$3,000 in full payment under the first agreement before completion of work thereunder, and homeowner could recover the \$3,000 from contractor. *R. C. Miller v. Peoples Contractors, Ltd.* (D.C. App. 1969, 257 A. 2d 476).

§ 47-2346. Prosecutions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

§ 47-2347. Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

NOTES TO DECISIONS

Estoppel to litigate

The Court held that the District of Columbia was collaterally estopped from relitigating in criminal prosecution the issue of whether art dealer was required to obtain secondhand dealer's license where that issue had been fully litigated before the Board of Appeals and Review and issue decided in favor of dealer. *District of Columbia v. P. H. Fisher* (D.C. App. 1969, 258 A. 2d 456).

§§ 47-2348, 47-2349.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-105, 43-907.

§ 47-2350. Refund of erroneously-paid fees.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-105, 43-907.

Chapter 24.—DISTRICT OF COLUMBIA TAX COURT

§ 47-2401. Tax appeals—Definitions.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-2402. Board of Tax Appeals—District of Columbia Tax Court.

* * * * *

The salary of such person so appointed shall be \$27,500 per annum. The commissioners are authorized to employ such other personal services as may be necessary to carry out the provisions of this chapter and to provide for the expenses of the board. The salaries of employees other than the board shall be fixed in accordance with section 305, chapter 51, subchapter III of chapter 53, and sections 5341, 5342, 5504, 5509 and 7154, of title 5, U.S. Code [relating to the classification of government employees and related matters], but such employees shall be appointed without regard to civil-service requirements. The commissioners shall include in their annual estimates such amounts as may be required for the salaries and expenses herein authorized.

* * * * *

(As amended, Oct. 17, 1968, Pub. L. 90-579, § 3, 82 Stat. 1119.)

AMENDMENT

Section 3, Pub. L. 90-579, amended the first sentence of the second paragraph by striking out "\$23,500" and inserting in lieu thereof "\$27,500".

EFFECTIVE DATE OF 1968 AMENDMENT

Section 4, act, Oct. 17, 1968, Pub. L. 90-579, provided: "This Act [Amendments of sections 47-2402; 11-702(d)

and 11-902(a) and (d)] shall take effect as of October 1, 1968."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-2403. Appeal from assessment—Hearing and decision.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-603-1, 45-734, 47-709 to 47-712, 47-716, 47-801e, 47-1215, 47-1531, 47-1534, 47-1593, 47-2405, 47-2406, 47-2413, 47-2618.

NOTES TO DECISIONS

Jurisdiction

Letter which was signed by executor of estate and specifically stated that it was sent as agent for residuary legatee and that legatee wished to appeal inheritance tax assessment contained statement "sufficient to indicate that court has jurisdiction of the subject" within rule authorizing informal petitions consisting of letter addressed to the court and signed by taxpayer if it contains such statements. *District of Columbia v. M. W. Payne* (1966, 374 F. 2d 261, 126 U.S. App. D.C. 47).

A letter which was signed by officer of executor of decedent's estate and which specifically stated that it was sent as agent for residuary legatee and that the legatee wished to appeal inheritance tax assessment substantially complied with District of Columbia Tax Court rule providing for informal petition consisting of letter addressed to court and actually signed by taxpayer if it contains statements sufficient to indicate that court has jurisdiction of subject. *Id.*

§ 47-2404. Review by court—Procedure—Decision of Board, when final—Modification or reversal.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 40-603-1, 45-734, 47-709 to 47-112, 47-716, 47-801e, 47-1215, 47-1531, 47-1534, 47-1593, 47-2405, 47-2406, 47-2413, 47-2618.

§§ 47-2407 to 47-2411.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 40-603-1, 45-734, 47-1215, 47-1531, 47-1534, 47-1593, 47-2618.

§ 47-2412. Reference by Commissioners to the Board.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-1531, 47-1534.

§ 47-2413. Overpayments—Board of Tax Appeals.

CODIFICATION

The reference in subsection (a) to sections 47-1501 to 47-1548, is an error. The reference should be to sections 47-1501 to 47-1547.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45-735, 47-2405.

Chapter 25.—MISCELLANEOUS PROVISIONS**§ 47-2501. Authorization for advance of funds by Secretary of Treasury.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-2501a. Annual payment by the United States—Appropriations.

For the fiscal year ending June 30, 1970, and for each fiscal year thereafter, there is authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed \$105,000,000 which shall be credited to the general fund of the District of Columbia. (July 16, 1947, 61 Stat. 361, ch. 258, Art. VI, § 1; May 18, 1954, 68 Stat. 113, ch. 218, title VII, § 701; Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title V, § 501; Nov. 3, 1967, Pub. L. 90-120, title I, § 101, 81 Stat. 339; Aug 2, 1968, Pub. L. 90-450, title I, § 101, 82 Stat. 612; Oct. 31, 1969, Pub. L. 91-106, title VII, § 701.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 701, amended section by striking out “June 30, 1969” and inserting “June 30, 1970” and by striking out “the sum of \$90,000,000” and inserting “not to exceed \$105,000,000”.

1968—Section 101, Pub. L. 90-450, amended section by striking out “June 30, 1968” and inserting in lieu thereof “June 30, 1969” and by striking out “\$70,000,000” and inserting in lieu thereof “\$90,000,000”.

1967—Section 101, Pub. L. 90-120, amended section by striking out, “June 30, 1967” and inserting in lieu thereof “June 30, 1968” and by striking out “\$60,000,000” and inserting in lieu “\$70,000 000”.

**AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS**

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

LIMITATION ON APPROPRIATIONS

Section 803 of Pub. L. 91-106, provided: “No funds may be appropriated for any fiscal year under article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, secs. 47-2501a—47-2501b) until the President of the United States has reported to the Congress that (1) the District of Columbia government has begun work on each of the projects listed in section 23(b) (Sec. 7-135 note) of the Federal-Aid Highway Act of 1968 and has committed itself to complete those projects, or (2) the District of Columbia government has not begun work on each of those projects, or made or carried out that commitment, solely because of a court injunction issued in

response to a petition filed by a person other than the District of Columbia or any agency, department, or instrumentality of the United States.”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

“(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

The enacting clause of Act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the “District of Columbia Revenue Act of 1968”.

Section 1, act Nov. 3, 1967, Pub. L. 90-120 provided: “That this Act [amending section 47-2501a, subsection 9-220(b), repealing subsection (f) of section 9-220 and enacting section 1-320] may be cited as the ‘District of Columbia Federal Payment Authorization and Borrowing Authority Act of 1967.’”

SPECIAL APPROPRIATIONS FOR FISCAL YEAR 1970

Section 702, Pub. L. 91-106 provided: For the fiscal year ending June 30, 1970, there is authorized to be appropriated to the District of Columbia, in addition to any other amounts authorized to be appropriated to the District of Columbia for such fiscal year, not to exceed \$5,000,000 to enable it to undertake new law enforcement programs authorized by law after the date of the enactment of this Act or to otherwise increase the effectiveness of law enforcement in the District of Columbia.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9-220 as section 1 of article VI of the District of Columbia Revenue Act 1947.

§ 47-2502. Regulations.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(397) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2504. Divulging of information obtained from Bureau of Internal Revenue unlawful—Penalties.**TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as

provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 26.—GROSS SALES TAX

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 47-2701, 47-2712.

§ 47-2601. Definitions.

* * * * *

7. "Food" means cereals and cereal products; milk and milk products, including ice cream; meat and meat products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit, fruit products, and fruit juices; soft drinks; spices and salt; flavoring extracts and condiments; sugar and sugar products; coffee and coffee substitutes; tea; cocoa and cocoa products; and ice. The word "food" shall not include spiritous or malt liquors, beer, or wines.

* * * * *

14(a) (1), (2), (3), (4), (5), (6), * * *

(7) (A) The sale of or charges to subscribers for local telephone service. The inclusion of such sales and charges in the definition of the terms "retail sale" and "sale at retail" shall not authorize any tax to be imposed under this title on so much of any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.

(B) The term "local telephone service" means—

(i) the access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system, and

(ii) any facility or service provided in connection with a service described in clause (i) of this subparagraph. The term "local telephone service" does not include any service which is a "toll telephone service" or a "private communication service" as defined in subparagraphs (C) and (D).

(C) The term "toll telephone service" means—

(i) a telephonic quality communication for which (a) there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and (b) the charge is paid within the United States, and

(ii) a service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

(D) The term "private communication service" means—

(i) the communication service furnished to a subscriber which entitles the subscriber—

(a) to exclusive or priority use of any communication channel or groups of channels, or

(b) to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, or groups of channels, or intercommunication system may be connected through switching with a service described in subparagraph (B) or (C),

(ii) switching capacity, extension lines and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of, channels, or systems described in clause (i) of this subparagraph, and

(iii) the channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system,

except that such term does not include any communication service unless a separate charge is made for such service.

(8) The sale of or charges for admission to public events, including movies, musical performances, exhibitions, circuses, sporting events, and other shows or performances of any type or nature, except that any casual or isolated sale of or charge for admission made by a semipublic institution not regularly engaged in making such sales or charges shall not be considered a retail sale or sale at retail.

(9) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, whether or not such service is performed by other means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service.

(10) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services.

(11) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when such service is performed by means of self-service, coin-operated equipment.

14(b) [Text of former par. (1) stricken by § 102(1) of Pub. L. 91-106.]

(1) (A) Sales of transportation and communication services other than sales of local telephone service.

(B) Sales of local telephone service rendered by means of a coin-operated telephone available to the public; except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax imposed on local telephone service by this title.

(2) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in paragraph 14(a).

(3) Any sale in which the only transaction in the District is the mere execution of the contract of sale and in which the tangible personal property sold is not in the District at the time of such execution: *Provided, however, That nothing contained in this*

subsection shall be construed to be an exemption from the tax imposed under chapter 27 of this title.

(4) Sales to a common carrier or sleeping-car company by a corporation all of whose capital stock is owned by one or more common carriers or sleeping-car companies of tangible personal property, procured or acquired by such corporation outside the District, which consists of repair or replacement parts used for the maintenance or repair of any train operating principally without the District in the course of interstate commerce, or commerce between the District and a State, provided such sales are made in connection with the furnishing of terminal services pursuant to a written agreement entered into before January 1, 1963.

* * * *

16(b) (1) (2) * * *

(3) The amount separately charged for labor or services rendered in installing or applying the property sold, except as provided in paragraph 14(a).

* * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title III, §§ 301, 302, 303, 82 Stat. 613; Oct. 31, 1969, Pub. L. 91-106, title I, §§ 101, 102, 103, 83 Stat. 169.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, secs. 101, 102 and 103, amended section as follows:

(1) Added pars. (8), (9), (10), and (11) to paragraph 14(a);

(2) Struck out existing par. (1) of 14(b) which read: "Sales of tickets for admission to places of amusement and sports" is no longer included in the definition of "retail sale" and "sale at retail";

(3) Renumber par. 14(b) (2) as (1), 14(b) (3) as (2) and adding at the end of that par. the words "except as otherwise provided in subsection (a) [14(a)] of this section." and renumbering 14(b) (4) and (5) as 14(b) (3) and (4);

(4) Amending par. 16(b) (3) to read as above set out.

Par. 16(b) (3) read before the amendment as follows:

(3) "The amount charged for labor or services rendered in installing or applying the property sold."

1968—Section 301, Pub. L. 90-450, amended par. 7 of this section by striking out "Provided, however, That the word 'food' shall not include spiritous or malt liquors and beer" and inserting after the period at the end of the paragraph the following: "The word 'food' shall not include spiritous or malt liquors, beer, or wines."

Section 302, Pub. L. 90-450, amended par. 14(a) by adding thereto subparagraph 7(A), (B), (C), (D).

Section 303, Pub. L. 90-450, amended par. 14(b) (2) to read as above set out. The amendment resulted in the addition of the phrase "other than sales of local telephone service" to par. 14(b) (2) (A) and in the addition of the matter set out as 14(b) (2) (B).

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title [amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701, and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]

EFFECTIVE DATE OF PUB. L. 90-450

Section 308, act Aug. 2, 1968, Pub. L. 90-450, provided: "Except as provided in section 305(b), [relating to par. (d) of section 47-2605] the amendments made by this title [amendments of sections 47-2601, 47-2602, 47-2605, 47-2701 and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. The imposition of sales tax on local telephone service shall be applicable to the sales price or charge made by a vendor for local telephone service as stated on the bills rendered to

the purchaser by the vendor on and after such effective date."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Sec. 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

The enacting clause of act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968".

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2605.

§ 47-2602. Imposition of tax.

A tax is imposed upon all vendors for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as "retail sale" and "sale at retail" in this chapter). The rate of such tax shall be 4 per centum of the gross receipts from sales of or charges for such tangible personal property and services, except that—

(1) the rate of tax shall be 2 per centum of the gross receipts from (A) sales of food for human consumption off the premises where such food is sold, (B) sales of or charges for the services described in paragraph (11) of paragraph 14(a) of section 47-2601, and (C) sales of medicines, pharmaceuticals, and drugs not made on prescriptions of duly licensed physicians, surgeons, or other general or special practitioners of the healing art;

(2) the rate of tax shall be 5 per centum of the gross receipts from sales of or charges for any room or rooms, lodgings, or accommodations, furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(3) the rate of tax shall be 5 per centum of the gross receipts from sales of (A) spiritous or malt liquors, beer, and wines, and (B) food for human consumption other than off the premises where such food is sold.

(May 27, 1949, 63 Stat. 115, ch. 146, title I, § 125; May 18, 1954, 68 Stat. 117, ch. 218, title XIII, § 1303; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 101(a); Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 301(a); Aug. 2, 1968, Pub. L. 90-450, title III, § 304, 82 Stat. 614; Oct. 31, 1969, Pub. L. 91-106, title I, § 104, 83 Stat. 170.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 104 amended section to read as above set out. Prior to this, amended section read as follows: "A tax is imposed upon all vendors for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as 'sales at retail' in this chapter). The rate of such tax shall be 4 per centum of the vendor's gross receipts from the sale of such tangible personal property and services, except that the rate of tax with respect to sales or charges for any room or rooms, lodgings, or accommodations, furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients, shall be 5 per centum of the gross receipts from such sales or charges, and the rate of tax with respect to sales of food for human consumption off the premises where such food is sold shall be 1 per centum of the gross receipts from such sales."

1968—Section 304, Pub. L. 90-450, amended the section to read as above set out. The amendment resulted in a rearrangement of language and an increase of the tax on the sale of tangible personal property and services from 3 to 4 percent.

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701, and 47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act [Oct. 31, 1969.]

EFFECTIVE DATE OF PUB. L. 90-450

Section 308, act Aug. 2, 1968, Pub. L. 90-450, provided: "Except as provided in section 305(b) [relating to par. (d) of section 47-2605] the amendments made by this title [amendments of sections 47-2601, 47-2602, 47-2605, 47-2701 and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. The imposition of sales tax on local telephone service shall be applicable to the sales price or charge made by a vendor for local telephone service as stated on the bills rendered to the purchaser by the vendor on and after such effective date."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2705.

§ 47-2603. Reimbursement of vendor for tax.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2604, 47-2703, 47-2704.

§ 47-2604. Rate of tax.

* * * * *

(b) On each sale of food for human consumption off the premises where such food is sold where the sales price is from 13 cents to 62 cents, both inclusive, 1 cent; on each such sale where the sales price is from 63 cents to \$1.12, both inclusive, 2 cents; and on each 50 cents of the sales price or fraction thereof of such sale in excess of \$1.12, 1 cent.

* * * * *

(As amended Oct. 31, 1969, Pub. L. 91-106, title I, § 105, 83 Stat. 171.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 105, amended subsection (b) by changing the bracket structure to which the tax rate is applicable.

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701 and

47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(398) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2603, 47-2703, 47-2704.

§ 47-2605. Exemptions.

Gross receipts from the following sales shall be exempt from the tax imposed by this chapter:

(a) Sales to the United States or the District or any instrumentality thereof except sales to national banks and Federal savings and loan associations.

(b) Sales to a State or any of its political subdivisions if such State grants a similar exemption to the District. As used in this subsection, the term "State" means the several States, Territories, and possessions of the United States.

(c) Sales to a semipublic institution: *Provided, however, That* such sales shall not be exempt unless (1) such institution shall have first obtained a certificate from the Assessor stating that it is entitled

to such exemption, and (2) the vendor keeps a record of the sales price of each such separate sale, the name of the purchaser, the date of each such separate sale, and the number of such certificate.

(d) Sales of materials and services to the printing clerks of the majority and minority rooms of the House of Representatives for use in the operation of such rooms, and sales of materials and services made by such clerks in connection with the operation of such rooms.

(e) Sales of motor-vehicle fuels upon the sale of which a tax is imposed by chapter 19 of this title.

(f) Sales of property purchased by a utility or public-service company for use or consumption in furnishing a commodity or service: *Provided, That* the receipts from furnishing such commodity or service are subject to a gross-receipts or mileage tax in force in the District during or for the period of time covered by any return required to be filed by the provisions of this chapter.

(g) Sales of newspapers and publications of semi-public institutions as defined in paragraph 18 of section 47-2601.

(h) Casual and isolated sales by a vendor who is not regularly engaged in the business of making sales at retail.

(i) Sales of food, beverages, and other goods made to any person for use in the operation of the majority and minority cloakrooms of the House of Representatives and sales of such food, beverages, and other goods made by such person in connection with the operation of such cloakrooms.

(j) Sales of food or beverages of any nature if made in any car composing a part of any train or in any aircraft or boat operating within the District in the course of commerce between the District and a State.

(k) Sales of goods made pursuant to bona fide contracts entered into before May 27, 1949: *Provided, That* there is a contract in writing signed by the purchaser and vendor which imposes an unconditional liability on the part of the purchaser to buy the goods covered thereby at a fixed price and without escalator clause, and an unconditional liability on the part of the vendor to deliver a definite quantity of such goods at the contract price.

(l) Sales of natural or artificial gas, oil, electricity, solid fuel, or steam, directly used in manufacturing, assembling, processing, or refining.

(m) Sales which a State would be without power to tax under the limitations of the Constitution of the United States.

(n) Sale of motor vehicles and trailers which are subject to the provisions of title III of the District of Columbia Revenue Act of 1949.

(o) Sales of medicines, pharmaceuticals, and drugs made on prescriptions of duly licensed physicians and surgeons and general and special practitioners of the healing art.

(p) Sales of crutches, wheel chairs for the use of cripples and invalids, and, when designed to be worn on the person of the purchaser or user, artificial limbs, artificial eyes, and artificial hearing devices; sales of false teeth by a dentist and the materials used by a dentist in dental treatment; sales of eyeglasses, when especially designed or prescribed by

an ophthalmologist, oculist, or optometrist for the personal use of the owner or purchaser; and sales of artificial braces and supports designed solely for the use of crippled persons.

(q) Sales of material to be incorporated permanently in any war memorial authorized by Congress to be erected on public grounds of the United States. (May 27, 1949, 63 Stat. 115, ch. 146, title I, § 128; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1305; Mar. 31, 1956, 70 Stat. 81, ch. 154, title II, § 204; July 3, 1957, 71 Stat. 276, Pub. L. 85-82, § 1; Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 302; Aug. 2, 1968, Pub. L. 90-450, title III, § 305(a), 82 Stat. 614; Oct. 31, 1969, Pub. L. 91-106, title I, § 106, 83 Stat. 171.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 106 amended subsection (o) by striking out the words “whether or not”.

1968—Section 305(a), Pub. L. 90-450, amended section by:

(1) Adding a new paragraph (d) as above set out in lieu of former par. (d) (1) and (2) which was repealed by Acts of May 18, 1954, 68 Stat. 118, § 1305, and Mar. 31, 1956, 70 Stat. 81, § 304(a);

(2) Amending par. (i) to read as above set out. The original text of par. (i) dealt with the sale of livestock poultry, seeds and other like products;

(3) Redesignating par. (r) as par. (q) in place of former par. (q) which had been repealed on Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, § 302.

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701 and 47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]

APPLICABILITY OF PARAGRAPH (d)

Section 305(b), Pub. L. 90-450, provided: “Paragraph (d) of such section 128 [47-2605(d)] added by paragraph (2) of subsection (a) of this section, shall apply with respect to sales of materials and services made on or after January 1, 1961.”

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: “Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]”

EFFECTIVE DATE OF PUB. L. 90-450

Section 308, act Aug. 2, 1968, Pub. L. 90-450, provided: “Except as provided in section 305(b) [relating to par. (d) of section 47-2605] the amendments made by this title [amendments of section 47-2601, 47-2602, 47-2605, 47-2701 and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. The imposition of sales tax on local telephone service shall be applicable to the sales price or charge made by a vendor for local telephone service as stated on the bills rendered to the purchaser by the vendor on and after such effective date.”

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

“(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

“(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]”

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: “That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act) may be cited as the ‘District of Columbia Revenue Act of 1969’.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2607.

§§ 47-2606, 47-2607.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-2413, 47-2703, 47-2704.

§§ 47-2608 to 47-2610.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-2413, 47-2707.

§ 47-2611. Assumption or refund of tax by vendor unlawful—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2709.

§§ 47-2612 to 47-2614.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-2413, 47-2710.

§ 47-2615. Secrecy of returns—Reciprocity.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5-723.

§ 47-2616. Determination of deficiencies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2617, 47-2713.

§ 47-2617. Refunds.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(399) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) with respect to prescribing regulations governing refunds, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§ 47-2618. Appeals.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2619, 47-2713.

§ 47-2619. Sales in bulk.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§ 47-2620. Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(400) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§ 47-2621. Additional powers of Assessor.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(401 and 402) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (c) and (d) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§ 47-2622. Examination of records and witnesses.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§ 47-2623. Certificate of registration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2712.

§ 47-2624. Penalties and interest.

(a) Any person who fails to file a return, who files a false or incorrect return, or who fails to pay the tax to the District within the time required by this chapter shall be subject to a penalty of 5 per centum of the amount of tax due if the failure is for not more than one month, with an additional 5 per centum for each additional month or fraction thereof during which such failure continues, not to exceed 25 per centum in the aggregate; plus interest at the rate of 1 per centum of such tax for each month or fraction thereof during which such failure continues; but the Commissioner may, if he is satisfied that the delay was excusable, waive all or any part of the penalty. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter. The penalty and interest provided for in this section shall be applicable to any tax determined as a deficiency.

(b) The certificate of the Commissioner to the effect that a tax has not been paid, that a return has not been filed, or a registration certificate has not been obtained, or that information has not been supplied pursuant to the provisions of this chapter, shall be presumptive evidence thereof: *Provided*, That the presumptions created by this subsection shall not be applicable in criminal prosecutions. (May 27, 1949, 63 Stat. 123, ch. 146, title I, § 147; July 10, 1952, 66 Stat. 543, ch. 649, § 2(c); Oct. 31, 1969, Pub. L. 91-106, title I, § 107, 83 Stat. 171.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 107, amended subsection (a) by providing that the penalty of 5 per centum shall apply to the first month of delinquency, with an additional penalty of 5 per centum for each additional month, with a maximum penalty of 25 per centum. Also substituted Commissioner for Assessor and omitted "Collector". In subsection (b) substituted "The certificate of the Commissioner" for "The certificate of the Collector or Assessor as the case may be".

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701 and 47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] has not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2413, 47-2713.

§§ 47-2625 to 47-2629.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-2413, 47-2713.

Chapter 27.—COMPENSATING-USE TAX

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 47-2601.

§ 47-2701. Definitions.

1(a) * * *

(1), (2), (3), (4), (5) * * *

(6) The sale of or charges for admission to public events, including movies, musical performances, exhibitions, circuses, sporting events, and other shows or performances of any type or nature, except that any casual or isolated sale of or charge for admission made by a semipublic institution not regularly engaged in making such sales or charges shall not be considered a retail sale or sale at retail.

(7) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, whether or not such service is performed by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service.

(8) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services.

(9) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when such service is performed by means of self-service, coin-operated equipment.

(b) * * *

[Former section (1) stricken out by § 109, Pub. L. 91-106.]

(1) Sales of transportation and communication services other than sales of local telephone service.

(2) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in subsection 1(a) of this section.

(3) Sales of tangible personal property which property was purchased or acquired by a nonresident prior to coming into the District and establishing or maintaining a temporary or permanent residence in the District. As used in this subsection, the word "residence" means a place in which to reside and does not mean "domicile."

(4) Sales of tangible personal property which property was purchased or acquired by a nonresident person prior to coming into the District and establishing or maintaining a business in the District.

(5) The use or storage within the District of tangible personal property owned and held by a common carrier or sleeping-car company for use principally without the District in the course of interstate commerce, or commerce between the District and a State, in or upon, or as part of, any train, aircraft, or boat.

* * * * *

(As amended Aug. 2, 1968, Pub. L. 90-450, title III, § 306, 82 Stat. 615; Oct. 31, 1969, Pub. L. 91-106, title I, §§ 108, 109, 83 Stat. 171, 172.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 108 amended subsection 1(a) by adding pars. (6) to (9) inclusive. Section 109 of the same act amended subsection 1(b) by striking out par. (1) redesignating par. (2) as par. (1) and par. (3) as (2) and by adding thereto at the end the words "except as otherwise provided in subsection (a) of this section" and by redesignating the existing pars.

(4), (5) and (6) as pars. (3), (4) and (5) respectively. The stricken par. (1) read: "Sales of tickets for admission to places of amusement and sports."

1968—Section 306, Pub. L. 90-450, amended par. 1(b) (2) by adding to existing language the phrase, "other than sales of local telephone service."

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701 and 47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969]

EFFECTIVE DATE OF PUB. L. 90-450

Section 308, act Aug. 2, 1968, Pub. L. 90-450, provided: "Except as provided in section 305(b), [relating to par. (d) of section 47-2605] the amendments made by this title [amendments of sections 47-2601, 47-2602, 47-2605, 47-2701 and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. The imposition of sales tax on local telephone service shall be applicable to the sales price or charge made by a vendor for local telephone service as stated on the bills rendered to the purchaser by the vendor on and after such effective date."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969.'"

The enacting clause of act Aug. 2, 1968, Pub. L. 90-450, provided: That this Act [Amending sections 25-107, 25-115(a), 47-1567b(a), 47-1571a, 47-1574b, 47-1586f(a) (4), 47-1589(b), 47-2501a, 47-2601, 47-2602, 47-2605, 47-2701, and 47-2702 and enacting sections 31-1118 and 47-145] may be cited as the "District of Columbia Revenue Act of 1968."

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2413.

§ 47-2702. Imposition of tax.

Beginning on and after August 1, 1949, there is hereby imposed and there shall be paid by every vendor engaging in business in the District and by every purchaser a tax on the use, storage, or consumption of any tangible personal property and services sold or purchased at retail sale. The rate of tax imposed by this section shall be 4 per centum of the sales price of such tangible personal property or services, except that—

(1) the rate of tax shall be 2 per centum of the sales price of (A) sales of food for human consumption off the premises where such food is sold, (B) sales of the services described in paragraph (9) of section 47-2701, 1(a) of this chapter, and (C) sales of medicines, pharmaceuticals, and drugs not made on prescriptions of duly licensed physicians, surgeons, or other general or special practitioners of the healing art;

(2) the rate of tax shall be 5 per centum of the sales price of sales of any room or rooms, lodgings, or accommodations, furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(3) the rate of tax shall be 5 per centum of the sales price of sales of (A) spiritous or malt liquors, beer, and wines, and (B) food for human consumption other than off the premises where such food is sold.

(May 27, 1949, 63 Stat. 126, ch. 146, title II, § 212; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1307; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 102; Aug. 2, 1968, Pub. L. 90-450, title III, § 307, 82 Stat. 615; Oct. 31, 1969, Pub. L. 91-106, title I, § 110, 83 Stat. 172.)

AMENDMENTS

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 110 amended section by striking out the last sentence and inserting in lieu a new sentence as above set out. The sentence prior to this amended read as follows: "The rate of the tax imposed by this section shall be 4 per centum of the sales price of the tangible personal property or services rendered or sold, except that the rate of tax with respect to sales of food for human consumption off the premises where such food is sold shall be 1 per centum of the sales price of such sales."

1968—Section 307, Pub. L. 90-450, amended the last sentence of this section to read as above set out. The result of the amendment was an increase in tax rate from 3 to 4 percent and some rearrangement of language.

EFFECTIVE DATE OF 1969 AMENDMENTS

Act Oct. 31, 1969, Pub. L. 91-106, title I, § 111, provided: The amendments made by this title (amendments of §§ 47-2601, 47-2602, 47-2604, 47-2605, 47-2624, 47-2701 and 47-2702) shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. [Oct. 31, 1969.]

EFFECTIVE DATE OF PUB. L. 90-450

Sec. 308, Act Aug. 2, 1968, Pub. L. 90-450, provided: "Except as provided in section 305(b), [elating to par. (d) of section 47-2605] the amendments made by this title [amendments of sections 47-2601, 47-2602, 47-2605, 47-2701 and 47-2702] shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act. The imposition of sales tax on local telephone service shall be applicable to the sales price or charge made by a vendor for local telephone service as stated on the bills rendered to the purchaser by the vendor on and after such effective date."

AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805 of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2413.

§§ 47-2703 to 47-2707.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2413.

§ 47-2708. Surety bonds may be required.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(403) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to requiring vendors to file bond, determining the sureties necessary, and the duration of the bond, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2413.

§§ 47-2709, 47-2710.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 47-2413.

§ 47-2711. Monthly returns to be filed—Content and form—Payment of tax.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(404 and 405) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (a) and (b) in the particulars specified in pars. 404 and 405, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of the Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2413.

§§ 47-2712, 47-2713.**SECTIONS REFERRED TO IN OTHER SECTIONS**

These sections are referred to in section 47-2413.

Chapter 28.—CIGARETTE TAX**§ 47-2801. Definitions.****TRANSFER OF FUNCTIONS TO COMMISSIONER**

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(406) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (g) to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2802. Imposition of tax.

(a) There shall be levied, collected, and paid on all cigarettes sold in the District by licensed wholesalers, licensed retailers, or by licensed vending-machine operators, to consumers, a tax at the rate of 4 cents on each twenty cigarettes or fractional part thereof, such tax to be levied, collected, and paid once only on cigarettes sold as aforesaid.

* * * * *

(As amended Oct. 31, 1969, Pub. L. 91-106, title III, § 301, 83 Stat. 173.)

AMENDMENT

1969—Act Oct. 31, 1969, Pub. L. 91-106, § 301, amended subsection (a) by increasing the tax from 3 to 4 cents.

EFFECTIVE DATE OF 1969 AMENDMENT; APPLICABILITY TO STOCK HELD PRIOR TO EFFECTIVE DATE; STATEMENTS; RECORDS OF INVENTORIES; PUNISHMENT FOR VIOLATIONS

Section 302 of act Oct. 31, 1969, Pub. L. 91-106, title III, provided:

(a) Except as otherwise provided, the amendment made by section 301 shall apply with respect to cigarette tax stamps purchased on or after the effective date of this title, which shall be the first day of the first month which begins on or after the thirtieth day after the date of the enactment of this Act. [Oct. 31, 1969.]

(b) In the case of cigarette tax stamps which have been purchased prior to the effective date of this title and which on such date are held (affixed to a cigarette package or otherwise) by a wholesaler, retailer, or vending machine operator, licensed under the District of Columbia Cigarette Tax Act, such licensee shall pay to the Commissioner (in accordance with subsection (c)) an amount equal to the difference between the amount of tax represented by such tax stamps on the date of their purchase and the amount of tax which an equal number of cigarette tax stamps would represent if purchased on the effective date of this title.

(c) Within twenty days after the effective date of this title, each such licensee (1) shall file with the Commissioner a sworn statement (on a form to be prescribed by the Commissioner) showing the number of such cigarette tax stamps held by him as of the beginning of the day on which this title becomes effective or, if such day is a Sunday, as of the beginning of the following day, and (2) shall pay to the Commissioner the amount specified in subsection (b).

(d) Each such licensee shall keep and preserve for the twelve-month period immediately following the effective date of this title the inventories and other records made which form the basis for the information furnished to the Commissioner on the sworn statement required to be filed under this section.

(e) For purposes of this section, a tax stamp shall be considered as held by a wholesale, retailer, or vending machine operator if title thereto has passed to such wholesaler, retailer, or operator (whether or not delivery to him has been made) and if title to such stamp has not at any time been transferred to any person other than such wholesaler, retailer, or operator.

(f) A violation of the provisions of subsection (b), (c), or (d) of this section shall be punishable as provided in section 611 of the District of Columbia Cigarette Tax Act (D.C. Code, sec. 47-2810).

**AUTHORITY OF COMMISSIONER AND DISTRICT COUNCIL
DELEGATION OF FUNCTIONS**

Section 804, Pub. L. 91-106, provided: "Except as otherwise provided in this title [title VIII], nothing in this Act [Pub. L. 91-106], or any amendments made by this Act [Pub. L. 91-106], shall be construed to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act [Pub. L. 91-106] in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such Plan. [For classification of provisions of this Act (Pub. L. 91-106) see tables.]"

SAVINGS PROVISIONS OF PUB. L. 91-106

Section 805, of Pub. L. 91-106 provided:

"(a) The repeal or amendment by this Act [Act, Pub. L. 91-106] of any provision of law shall not affect any other provision of law, or any act done or any right accrued or accruing under such repealed or amended law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law; but all rights and liabilities under such repealed or amended law shall continue, and shall be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

"(b) In the case of any offense committed or penalty incurred under any provision of law repealed or amended by this Act [Act, Pub. L. 91-106], such offense may be prosecuted and punished and such penalty may be enforced in the same manner and with the same effect as if this Act [Act, Pub. L. 91-106] had not been enacted. [This act is classified to this section and other sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this Act.]"

SHORT TITLE

The enacting clause of act Oct. 31, 1969, Pub. L. 91-106 provided: "That this Act (classified to this and other

sections of titles 1 App., 25, 40 and 47 of the D.C. Code. See tables for complete classification of this act) may be cited as the 'District of Columbia Revenue Act of 1969'."

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(407 to 410) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (c), (d), (h) and (i) in the particulars described in pars. 407 to 410, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2805. Types of licenses.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(411, 412 and 413) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsections (A), (B) and (C)(3) in the particulars described in pars. 411, 412 and 413, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2806. Period of licenses—Suspensions and revocations.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(414) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to fixing by regulation periods for which licenses shall remain in effect, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2808. Administration—Rules and regulations.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(415) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section with respect to making rules and regulations, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

§ 47-2809. Personnel and expenses authorized.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For

provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

§ 47-2811. Redemption of cigarette or alcoholic-beverage tax stamps.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL

Section 402(416) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under subsection (a) with regard to prescribing regulations respecting refunds or allowances, to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

Chapter 29.—ADMISSION TO LICENSED PLACES— POSTING OF PRICE SCALE

§§ 47-2901, 47-2902.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 47-2903, 47-2904.

§ 47-2903. Increase of penalty provisions in section 47-2901.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2902, 47-2904.

§ 47-2904. Recovery of fine—Payment of moiety.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2902.

§ 47-2905. Posting of price scale.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2906, 47-2907.

§ 47-2906. Failure to post price scale—Penalty.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2907.

§§ 47-2908, 47-2909.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 47-2911.

§ 47-2910. Proprietors or keepers of licensed restaurants, eating-houses, bar-rooms, sample-rooms, ice-cream saloons, or soda fountains required to serve well-behaved persons at common prices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-2909, 47-2911.

§ 47-2911. Failure to post or file price list—Charging other or greater price—Failure to serve any well-behaved person—Penalty—Enforcement.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-2909.

Chapter 30.—CLOSING-OUT SALES

§ 47-3002. Closing-out sales prohibited without a license—Application for license to be in writing—License fee—Bond—Records—Penalty.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 47-3003, 47-3004.

§ 47-3005. Continuation of sale beyond termination date prohibited—Extension of termination date—Continuation of business at new location prohibited.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 47-3009.

§ 47-3009. Regulations.**TRANSFER OF FUNCTIONS TO DISTRICT OF COLUMBIA COUNCIL**

Section 402(417) of Reorg. Plan No. 3 of 1967, effective November 3, 1967, transferred the regulatory and other functions of the Board of Commissioners, under this section to the District of Columbia Council, subject to the right of the Commissioner as provided by section 406 of the Plan. For provisions establishing the District of Columbia Council, see section 201 of Reorganization Plan No. 3 of 1967, set out in the appendix to title 1.

TITLE 48.—TRADE-MARKS AND TRADE NAMES

Chapter 2.—REGISTRATION OF MILK CONTAINERS

§§ 48-201 to 48-209.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 48-201, 48-204 to 48-211.

§ 48-210. Prosecutions—Penalties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48-201 to 48-211.

Chapter 3.—REGISTRATION OF CONTAINERS FOR BEVERAGES COMPOSED PRINCIPALLY OF MILK

§ 48-302. Registration authorized—Publication.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 48-301, 48-303, 48-305.

§§ 48-303 to 48-305, 48-307.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 48-301.

Chapter 4.—REGISTRATION OF LABOR UNION LABELS

**§ 48-401. Adoption of label authorized—Registration—
Assignment prohibited.**

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48-402.

§ 48-402. Use of registered label restricted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 48-403.

TITLE 49.—COMPILATION AND CONSTRUCTION OF CODE

Chapter 1.—GENERAL PROVISIONS

§ 49-111. Disposition of compilation of laws affecting District of Columbia.

TRANSFER OF FUNCTIONS TO COMMISSIONER

Section 401 of Reorganization Plan No. 3 of 1967, effective November 3, 1967, transferred functions of the Board of Commissioners, including functions of the President of the Board and all functions of each other member of the Board, including the executive power vested therein, to the Commissioner of the District of Columbia, except as provided by other sections of the Reorganization Plan. For provisions establishing the office of Commissioner of the District of Columbia and abolishing the Board of Commissioners, see sections 301 and 503 of the Plan, set out in the appendix to title 1.

Chapter 3.—LAWS REMAINING IN FORCE

§ 49-301. Common law, principles of equity and admiralty, and Acts of Congress to remain in force.

The common law, all British statutes in force in Maryland on February 27, 1801, the principles of

equity and admiralty, all general Acts of Congress not locally inapplicable in the District of Columbia, and all Acts of Congress by their terms applicable to the District of Columbia and to other places under the jurisdiction of the United States, in force in the District of Columbia on March 3, 1901, shall remain in force except in so far as the same are inconsistent with, or are replaced by, some provision of the 1901 Code. (Mar. 3, 1901, 31 Stat. 1189, ch. 854, § 1.)

NOTES TO DECISIONS

Construction

Statute providing that all consistent common-law and British statutes in force in Maryland at time of cession of District shall remain in force does not demand blind allegiance, particularly as to common law. *W. J. White v. A. Parnell* (1968, 397 F. 2d 709, 130 U.S. App. D.C. 148).

§ 49-303. Vestries.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 29-1003.

Parallel Reference Tables

TABLE 7.—STATUTES AT LARGE

VOLUME 19						VOLUME 81—Continued					
Date	Page	Chapter	Section	D.C. Code Supp.		Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1876						1967					
Apr. 29---	41	86	1	9-118a.		Dec. 16----	633	90-206	II	211(b)(c)(d)	4-823, 31-1501 note.
VOLUME 79						Dec. 18----	659	90-212		1(a)	31-691.
Date	Page	Pub. L.	Title	Section	D.C. Code Supp.		659	90-212		1(b)	31-692.
1965							659	90-212		1(c)	31-694.
Aug. 10-----	484	89-117	III	317	5-717a(i).	Dec. 20----	670	90-220		I	1-1422.
VOLUME 80						Dec. 26----	728	90-223		I	25-137.
Date	Page	Pub. L.	Title	Section	D.C. Code Supp.	Dec. 27----	734	90-226	I	101	4-140.
1966							734	90-226	II	201	24-301.
Oct. 29-----	1072	89-698	IV	401	9-118b.		735	90-226	III	301	4-140a.
VOLUME 81							736	90-226	IV	401	22-703.
Date	Page	Pub. L.	Title	Section	D.C. Code Supp.		736	90-226	V	501	22-3201.
1967							736	90-226	VI	601	22-501.
May 25-----	20	90-19		3	5-717a.		736	90-226	VI	602	22-1801.
	25	90-19		17	5-724.		737	90-226	VI	603	22-2901.
June 28-----	81	90-33		1	1-906.		737	90-226	VI	604	22-1513.
July 3-----	108	90-43		1	40-102(d).		737	90-226	VI	605	22-3202.
July 7-----	122	90-53		1	30-120, 30-123.		737	90-226	VI	606	22-2001.
July 28-----	134	90-57		101	9-126a.		739	90-226	VI	607	22-3105.
	135	90-57		101	31-121.		739	90-226	VI	608	4-150a.
Sept. 11-----	224	90-83		10(b)	1-311, Note Rep., 4-823, Note Rep., 31-1501, Note Rep.		740	90-226	VII	701	23-610.
	224	90-84		1	43-1621(b).		740	90-226	VII	702(a)	23-901.
	225	90-84		2	43-1623.		740	90-226	VII	702(b)	23-903.
Oct. 20-----	275	90-108		1(a)	9-118.		741	90-226	VIII	801(a)	18 U.S.C. 5024.
	276	90-108		1(b)	9-123.		741	90-226	VIII	801(b)	18 U.S.C. 5025.
	277	90-108		1(c)	9-125.		741	90-226	VIII	802	18 U.S.C. 4122.
	277	90-108		1(d)	9-132.		742	90-226	VIII	803(a)	15-714.
	277	90-108		2	22-3111.		742	90-226	VIII	803(b)	15-716.
	278	90-108		3	9-118, 9-123. 9-125, 9-132, 22-3111 note.		742	90-226	IX	901	22-1122.
Oct. 24-----	336	90-115		I	2-133.		742	90-226	X	1001 to 1009	Temporary.
	336	90-115		2(1)	2-308 note.		743	90-226	XI	1101	4-140 etc. note.
	336	90-115		2(2)	2-209 note.		744	90-226	XI	1102	4-140 etc. note.
	336	90-115		2(3)	2-309a.		744	90-227		1	1-266.
	336	90-115		3	2-133, 2-308, 2-309, 2-309a note.		745	90-227		2	1-267.
Nov. 3-----	339	90-120		1	1-320, 9-220(b), 47- 2501a note.		747	90-231		1(1)	31-721.
	339	90-120	I	101	47-2501a.		747	90-231		1(2)	31-723.
	339	90-120	II	201	9-220(b).		747	90-231		1(3)	31-724.
	340	90-120	II	202	9-220(f) Rep.		748	90-231		1(4)	31-725.
	340	90-120	III	301	1-320.		748	90-231		1(5)	31-728.
Nov. 8-----	405	90-132	II		31-1010a note.		748	90-231		1(6)	31-729.
	429	90-133	IV	403	11-341 note.		750	90-231		1(7)	31-730.
Nov. 13-----	440	90-134		7	1-263 note.		751	90-231		1(8)	31-733.
	440	90-134		10	4-501 note.		751	90-231		1(9)	31-739a.
	441	90-134		12	1-243 note.		751	90-231		1(10)	31-739c.
	441	90-134		15	9-501, 33-111 note.						
Dec. 4-----	532	90-172		1	40-603.						
	532	90-172		2	40-706.						
	532	90-173		1	27-130.						
Dec. 6-----	542	90-176		1(1)	5-723(b).						
	542	90-176		1(2)	5-723(b).						
	542	90-176		1(3)	5-723(b).						
	543	90-176		1(4)	5-723(b).						
	543	90-176		1(5)	5-723(c).						
Dec. 8-----	544	90-178		1(1)	11-702(a).						
	544	90-178		1(2)	11-703(c).						
	545	90-178		1(3A)	11-705.						
	545	90-178		1(3B)	Sec. Analysis to T. 11 ch 7.						
	545	90-178		2(a)(b)	17-301(b).						

TABLE 7.—STATUTES AT LARGE—Continued

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Date	Page	Pub. L.	Title	Section	D.C. Code Supp.	Date	Page	Pub. L.	Title	Section	D.C. Code Supp.
1968						1968					
April 22	102	90-292		3(c)	31-101(b) Rep.	Aug. 2	616	90-450	IV	404	25-115(a).
	102	90-292		3(d)	31-102 to 31-104a, 31-105, 31-108, 31-110, 31-112, 31-117.	Aug. 3	618	90-452		I	24-521 note.
	103	90-292		4(1)	1-1101.		618	90-452		2(a)	25-128.
	103	90-292		4(2)	1-1102.		618	90-452		2(b)	4-143.
	103	90-292		4(3)	1-1105.		618	90-452		3(a)	24-521 to 24-535.
	103	90-292		4(4)	1-1107.		624	90-452		3(b)	25-111a.
	103	90-292		4(5)	1-1108.		624	90-452		3(c)	24-514 Rep.
	104	90-292		4(6)	1-1109.		624	90-452		4	24-521 note.
	105	90-292		4(7)	1-1110.		628	90-455		1	1-804a.
	106	90-292		4(8)	1-1111.		628	90-455		2	1-804b.
	106	90-292		4(9)	1-1115, 1-1101 note.		629	90-455		3	1-804c.
	107	90-292		5	31-104b.		629	90-455		4	1-805, 1-806.
	107	90-292		6	1-1101 et seq. notes, 31-101 et seq. notes.		629	90-455		5	1-807.
May 27	132	90-319		I	31-1501 note.		629	90-455		6	1-804a note.
	132	90-319		2(1)	31-1501.		630	90-455		7	1-804 Rep.
	135	90-319		2(2)	31-1501.		630	90-455		8	1-804a note.
	138	90-319		2(3)	31-1532(a) (1).		630	90-455		9	1-804a note.
	138	90-319		2(4)	31-1533(a).		631	90-457		1 to 6	32-301 note.
	138	90-319		2(5)	31-1535(a).		633	90-458		I	6-1401.
	138	90-319		2(6)	31-1542(a).		633	90-458		2	6-1402.
	139	90-319		2(7)	31-1542(a).		633	90-458		3	6-1403.
	139	90-319		2(8)	31-1522(c).		633	90-458		4	6-1404.
	139	90-319		3	31-1501 note.		634	90-458		5	6-1401 note.
	140	90-319		4	31-1501 note.	Aug. 8	634	90-459		1	47-801 a-z.
	140	90-319		5	31-691.	Aug. 9	662	90-467		2	47-801 a-z note.
	140	90-319		6	31-1532, 31-1533, 31-1535 notes.	Aug. 10	686	90-470	IV	I	35-410.
	140	90-320		1(a)(b)	4-823.		699	90-473		403	11-341 note.
	142	90-320		2	4-823d-2.		699	90-473		7	1-263 note.
	144	90-320		3	4-832(a).		699	90-473		10	40-501 note.
	144	90-320		4, 5	4-823 note.	Aug. 23	699	90-473		12	1-243 note.
	145	90-320		6	4-105.		700	90-473		15	9-501, 33-111.
	145	90-320		7, 8	4-823 note.		827	90-495		23(a)(b)	7-135 note.
	146	90-320		9, 10	4-823 note.		827	90-495		(c)	7-135.
June 19	197	90-351		1	22-2306, 22-2307, 23-105 notes.		828	90-495		23(d)	7-136.
	238	90-351	VIII	1302	23-105.		958	90-553		23(e)(f)	9-301 note.
	238	90-351	X	1501	22-2306.	Oct. 8	989	90-557	II	1 to 6	30-1010a note.
	238	90-351	X	1502	22-2307.	Oct. 11	1002	90-566		I	45-615.
June 20	241	90-354	I	1(107)	31-1607.	Oct. 12	1002	90-567		1	40-201.
	241	90-354	I	1(108(a))	7-U.S.C. 329.		1004	90-573		1	1-824.
	241	90-354	I	1(108(b))	31-1608.	Oct. 17	1119	90-579		1	11-902 (a) and (d).
	241	90-354	I	1(109)	31-1609.		1119	90-579		2	11-702(d).
	242	90-354	I	1(110)	31-1610.		1119	90-579		3	47-2402.
	242	90-354		2	31-1607, 31-1608 notes.		1119	90-579		4	11-702 etc. notes.
July 5	291	90-380		1	11-341(b).		1150	90-587		I	1-820.
	291	90-381		3	22-3414.		1150	90-587		2	1-821.
July 21	396	90-412		1(a)	5-418a(1).		1150	90-587		3	1-822.
	396	90-412		1(b)	5-418c.		1150	90-587		4	1-823.
July 23	397	90-415		1	31-1029.		1152	90-589		1	40-455(a).
	397	90-415		2	31-1029 note.		1156	90-596	I	101	7-902 note.
	406	90-417		101	9-126a note.		1156	90-596	I	102	7-902 note.
July 30	407	90-417		101	31-121 note.		1156	90-596	I	103	7-902.
	458	90-440		1	6-811 note.		1157	90-596	I	104	7-903.
	458	90-440		2	6-811.		1157	90-596	I	105	7-904.
	458	90-440		3	6-812.		1157	90-596	II	201	7-905.
	459	90-440		4	6-813.		1158	90-596	II	202	7-906.
	460	90-440		5	11-742(a).		1158	90-596	III	203	7-907.
	460	90-440		6	6-801 to 6-804 Rep.		1158	90-596	III	301	7-901 Rep.
	460	90-441		1	23-101a.		1159	90-596	III	302	7-908.
Aug. 1	520	90-448	V	501(c)	5-719a.		1159	90-596	III	303	7-909.
	567	90-448	XII	1201	35-1701 note.		1159	90-596	III	304	7-910.
	567	90-448	XII	1202	35-1701.		1159	90-596	III	305	7-911.
	568	90-448	XII	1203	35-1702.		1160	90-596	III	306	7-912.
	568	90-448	XII	1204	35-1703.		1160	90-596	III	307	7-913.
	569	90-448	XII	1205	35-1704.		1160	90-596	III	308	7-914.
	569	90-448	XII	1206	35-1705.		1161	90-596	III	308	7-915.
	571	90-448	XII	1207	35-1706.		1162	90-596	IV	310	7-916.
	571	90-448	XII	1208	35-1707.		1162	90-596	IV	401	7-917.
	571	90-448	XII	1209	35-1708.		1162	90-596	IV	402	7-918.
	571	90-448	XII	1210	35-1709.		1163	90-596	IV	403	7-919.
	572	90-448	XII	1211	35-1710.		1163	90-596	IV	404	7-920.
	572	90-448	XII	1212	35-1711.		1164	90-596	IV	405	7-921.
	572	90-448	XII	1213	11-742(a).		1164	90-596	IV	406	7-922.
	607	90-448	XVII	1711	5-117.		1164	90-596	IV	407	7-923.
Aug. 2	612	90-450	Enact. Clause.		47-2501 note.		1164	90-596	IV	408	7-924.
	612	90-450	I	101	47-2501.		1166	90-598		409	7-925.
	612	90-450	II	201	47-1567b(a).		1166	90-598		1	7-941 note.
	612	90-450	II	202(a)	47-1571a.		1166	90-598		2	7-941.
	612	90-450	II	202(b)	47-1574b.		1166	90-598		3	7-942.
	612	90-450	II	203(a)	47-1586f(a)(4).		1166	90-598		4	7-943.
	612	90-450	II	203(b)	47-1589(b).		1167	90-598		5	7-944.
	613	90-450	II	204	47-1567b note.		1167	90-598		6	7-945.
	613	90-450	II	205	47-1567b note.		1167	90-598		7	7-946.
	613	90-450	III	301	47-2601, par. 7.		1167	90-598		8	7-947.
	613	90-450	III	302	47-2601, par. 14(a).		1168	90-598		9	7-948.
	614	90-450	III	303	47-2601, par. 14(b)(2).		1168	90-598		10	7-949.
	614	90-450	III	304	47-2602.		1168	90-598		11	7-950.
	614	90-450	III	305(a)	47-2605.	Oct. 21	1169	90-598		12	7-951.
	615	90-450	III	305(b)	47-2605 note.		1170	90-598		13	7-952.
	615	90-450	III	306	47-2701, par. 1(b)(2).		1170	90-598		14	9-953.
	615	90-450	III	307	47-2702.		1187	90-605		1	44-214a.
	615	90-450	III	308	47-2601 note.		1203	90-614		1	1-1501 note.
	615	90-450	IV	401	31-1118.		1204	90-614		2	1-1501.
	615	90-450	IV	402	47-145.		1204	90-614		3	1-1502.
	616	90-450	IV	403	25-107.		1205	90-614		4	1-1503.
							1206	90-614		5	1-1504.
							1206	90-614		6	1-1505.
							1207	90-614		7	1-1506.
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	1210	90-614		12	1-1501 note.
Oct. 22	1315	90-623		7(a) (1)	39-608 Rep.
	1315	90-623		7(b)	Reorg. Plan No. 3, 1967 note.
Oct. 25	1363	90-640		1	31-1402.
	1363	90-640		2	31-1404.
	1363	90-640		3	31-1405.
	1363	90-640		4	31-1405 note.
	1363	90-640		5	31-1402 note.
	1364	90-640		6	31-1402 note.

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1969					
Aug. 25	104	91-63		I	Special.
Sept. 16	107	91-68		I	Special.
Oct. 1	130	91-80		I	46-301.
Oct. 31	169	91-106		Enact- ing Clause	47-1551c etc., notes.
	169	91-106	I	101	47-2601.
	170	91-106	I	102, 103	47-2601.
	170	91-106	I	104	47-2602.
	171	91-106	I	105	47-2604(b).
	171	91-106	I	106	47-2605(o).
	171	91-106	I	107	47-2624(a) (b).
	171	91-106	I	108	47-2701(a).
	172	91-106	I	109	47-2701(b).
	172	91-106	I	110	47-2702.
	172	91-106	I	111	47-2601 etc., notes.
	172	91-106	II	201	40-603(j).
	172	91-106	II	202	40-603 note.
	173	91-106	III	301	47-2802(a).
	173	91-106	III	302	47-2802 note.
	173	91-106	IV	401	40-102.
	174	91-106	IV	402	40-103.
	174	91-106	IV	403	40-201.
	174	91-106	IV	404	40-603.
	174	91-106	IV	405	40-301(a).
	175	91-106	IV	406	40-419.
	175	91-106	IV	407	40-102 etc., notes.
	175	91-106	V	501(a)	25-124(a) (c).
				(b)	
	175	91-106	V	501(c)	25-138(a).
	175	91-106	V	502	25-124 note.
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